

PHYSICIANS' PATIENT RECORDS ACT

Section 44-7-325. Fee for search and duplication of medical record; time limits for compliance with request for record.

(A) A health care facility, as defined in Section 44-7-130, and a health care provider licensed pursuant to Title 40 may charge a fee for the search and duplication of a medical record, but the fee may not exceed sixty-five cent per page for the first thirty pages and fifty cents per page for all other pages, and a clerical fee for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax. However, no fee may be charged for records copied at the request of a health care provider or for records sent to a health care provider at the request of the patient for the purpose of continuing medical care. The facility or provider may charge a patient or the patient's representative no more than the actual cost of reproduction of an x-ray. Actual cost means the cost of materials and supplies used to duplicate the x-ray and the labor and overhead costs associated with the duplication.

(B) Except for those requests for medical records pursuant to Section 42-15-95:

(1) A health care facility shall comply with a request for copies of a medical record no later than forty-five days after the patient has been discharged or forty-five days after the request is received, whichever is later.

(2) Nothing in this section may compel a health care facility to release a copy of a medical record prior to thirty days after discharge of the patient.

Section 44-7-340. Violation as misdemeanor; fines.

Any person or facility violating any of the provisions of this article or a regulation under this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars for the first offense and not more than five thousand dollars for a subsequent offense. Each day's violation after a first conviction constitutes a subsequent offense.

Section 44-115-10. This chapter may be cited as the Physicians' Patient Records Act.

Section 44-115-20. The physician is the owner of medical records in his possession that were made in treating a patient and of records transferred to him concerning prior treatment of the patient.

Section 44-115-30. A patient or his legal representative has a right to receive a copy of his medical record, or have the

record transferred to another physician, upon request, when accompanied by a written authorization from the patient or his representative to release the record.

Section 44-115-40. Except as otherwise provided by law, a physician shall not honor a request for the release of copies of medical records without the receipt of express written consent of the patient or person authorized by law to act on behalf of the patient.

Section 44-115-50. A physician may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient's claim depends for release of the medical record is on file with the carrier as an authorization to release medical information under this chapter. A physician who in good faith releases medical information for claims processing relying on the representations of the claims administrator that an authorization for release of the information is on file is immune from any civil or criminal liability alleged to be caused by the physician's compliance with the request to release the information. The physician is not subject to disciplinary action for an alleged violation of law or regulation due to the compliance with the request to release information.

Section 44-115-60. Except as otherwise provided by law, a physician may refuse to release a copy of the entire medical record and may furnish instead a summary or portion of the record when he has a reasonable belief that release of the information contained in the entire record would cause harm to the patient's emotional or physical well-being, the emotional or physical well-being of another person who has given information about the patient to the physician, or where release of the information is otherwise prohibited by law. An unreasonable refusal to release the entire medical record constitutes unprofessional conduct and subjects the physician to disciplinary action of the South Carolina State Board of Medical Examiners.

However, notwithstanding the provisions of this section, a physician may not refuse to release the entire record or a portion of the record if the information is requested by a licensed attorney representing the patient, when the request is accompanied by a written authorization signed by the patient, the patient's legal guardian, or the patient's personal representative, for any reason, a licensed attorney representing

the patient, or by an insurance company with reference to an application for life or health insurance or the payment and adjudication of claims relating to life and health insurance or if the information is requested with reference to the payment or adjudication of personal injury claims.

Section 44-115-70. Medical records may not be withheld because of an unpaid bill for medical services.

Section 44-115-80. A physician may charge a fee for the search and duplication of a medical record, but the fee may not exceed sixty-five (65) cents per page for the first thirty (30) pages and fifty (50) cents per page for all other pages, and a clerical fee for searching and handling not to exceed fifteen dollars (\$15) per request plus actual postage and applicable sales tax. However, no fee may be charged for records copied at the request of a health care provider or for records sent to a health care provider at the request of the patient for the purpose of continuing medical care. The physician may charge a patient or the patient's representative no more than the actual cost of reproduction of an X-ray. Actual cost means the cost of materials and supplies used to duplicate the X-ray and the labor and overhead costs associated with the duplication.

Section 44-115-90. When a request for medical information involves more than making copies of existing documents, a physician may charge reasonable fees, exclusive of those fees charged for copying the medical record, for providing this service.

Section 44-115-100. The provisions of Sections 44-115-80 and 44-115-90 do not apply to requests for medical information necessary to process a health insurance claim made by a patient or on behalf of the patient by a health insurance carrier or health insurance administrator for services rendered by the physician from whom the information is requested.

Section 44-115-110. Payment for all services related to medical record requests is a just debt, due and payable at the time service is rendered. A physician may require payment in advance for a copy of the record.

Section 44-115-120. Physicians shall retain their records for at least ten years for adult patients and at least thirteen years for minors. These minimum record keeping periods begin to run from the last date of treatment. After these minimum record

keeping periods, the records may be destroyed.

Section 44-115-130. A physician may not sell medical records to someone other than a physician or osteopath licensed by the South Carolina State Board of Medical Examiners or a hospital licensed by the South Carolina Department of Health and Environment Control. Exceptions to this prohibition may be granted and approved by the South Carolina State Board of Medical Examiners.

Before a physician may sell medical records, he must cause to be published a public notice of his intention to sell the records in a newspaper of general circulation in the area of his practice at least three times in the ninety days preceding the sale. The notice shall advise patients that they may retrieve their records if they prefer that their records not be included in the sale.

Section 44-115-140. A physician who in good faith releases medical records to a party pursuant to a written authorization from the patient or the patient's representative is immune from civil or criminal liability alleged to be caused by the physician's compliance with the request to release the information. The physician is not subject to disciplinary action for an alleged violation of law due to compliance with the request to release information.

Section 44-115-150. This chapter does not invalidate any other provision of law concerning medical records, the alteration of medical records, any interest a patient has in the information contained within the medical record, or any civil action brought in the state or federal courts alleging medical negligence; further, this chapter does not invalidate the authority of a court to issue a subpoena or a licensing or disciplinary board of this State to obtain these records as provided by law.

Time effective.

Section 2. This act takes effect upon approval by the Governor.

Approved the 1st day of July, 1992.