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LC001303/SUB B
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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, plus actual shipping costs; provided, however, that fifty cents (\$.50) per page for
10 the first one hundred (100) pages and twenty-five cents (\$.25) per page for all pages thereafter
11 may be charged. In addition, 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 SECTION 2. Section 5-37.3-3 of the General Laws in Chapter 5-37.3 entitled
20 "Confidentiality of Health Care Communications and Information Act" is hereby amended to read
21 as follows:

22 **5-37.3-3. Definitions.**

23 As used in this chapter:

24 (1) "Authorized representative" means:

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

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

31 (iii) If the patient/client is deceased, his or her personal representative or, in the absence
32 of that representative, his or her heirs-at-law- ; ~~or~~

33 (iv) A patient's attorney.

34 (2) "Board of medical licensure and discipline" means the board created under chapter 37

1 of this title.

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

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

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

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

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

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

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

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

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

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

25 (iii) Contracts with an insurance company, a hospital or medical service plan, an
26 employer, an employee organization, or any other entity providing coverage for health care
27 services to operate a managed care plan.

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

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

- 1 (i) Arrangements with selected providers to furnish health care services;
2 (ii) Explicit standards for the selection of participating providers;
3 (iii) Organizational arrangements for ongoing quality assurance, utilization review
4 programs, and dispute resolution; and
5 (iv) Financial incentives for persons enrolled in the plan to use the participating providers
6 and procedures provided for by the plan.

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

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

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

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

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

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

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

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

23 (17) "Qualified personnel" means persons whose training and experience are appropriate
24 to the nature and level of the work in which they are engaged and who, when working as part of
25 an organization, are performing that work with published and adequate administrative safeguards
26 against disclosure unauthorized under this chapter.

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

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

32 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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