

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0754.01 Chelsea Princell x4335

HOUSE BILL 22-1293

HOUSE SPONSORSHIP

Daugherty and Van Winkle,

SENATE SPONSORSHIP

Zenzinger and Smallwood,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF MEDICAL RECORDS IN THE CUSTODY**
102 **OF A HEALTH-CARE FACILITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, attorneys are not subject to the reasonable fee guidelines when requesting medical records on behalf of a client. The bill includes attorneys among the individuals who can request medical records on behalf of a patient and subjects them to the same reasonable fee limitations for the costs associated with obtaining copies of medical records.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill caps the amount that can be paid as a reasonable fee at the maximum limit allowed under the federal "Health Information Technology for Economic and Clinical Health Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-1-801, **amend**
3 (1)(b) as follows:

4 **25-1-801. Patient records in custody of health-care facility -**
5 **definitions.** (1) (b) (I) ~~(A)~~ A ~~health~~ HEALTH-CARE facility licensed or
6 certified pursuant to section 25-1.5-103 (1) or article 3 of this ~~title~~ TITLE
7 25, or both, or an entity regulated under title 10, ~~C.R.S.~~, providing
8 health-care services, as defined in section 10-16-102 (33), ~~C.R.S.~~, directly
9 or indirectly through a managed care plan, as defined in section
10 10-16-102 (43), ~~C.R.S.~~, or otherwise, must provide copies of a patient's
11 medical records, including X rays, to:

12 (A) The patient or the patient's personal representative upon
13 request and payment of the fee a covered entity may impose in
14 accordance with the "Health Insurance Portability and Accountability Act
15 of 1996", Pub.L. 104-191, as amended, and any rules promulgated
16 pursuant to the act; ~~or to a third person who requests the records upon~~
17 ~~submission of a HIPAA-compliant authorization, valid subpoena, or court~~
18 ~~order and upon the payment of the reasonable fees.~~

19 (B) ~~The health-care facility must deliver the medical records in~~
20 ~~electronic format if the person requests electronic format, the original~~
21 ~~medical records are stored in electronic format, and the medical records~~
22 ~~are readily producible in electronic format. AN ATTORNEY WHO~~
23 ~~REPRESENTS THE PATIENT OR THE PATIENT'S PERSONAL REPRESENTATIVE~~
24 ~~UPON REQUEST AND PAYMENT OF THE REASONABLE FEES DEFINED IN~~

1 SUBSECTION (5)(c)(I) OF THIS SECTION FOR PAPER COPIES OF THE RECORDS,
2 OR, FOR RECORDS PRODUCED BY ELECTRONIC MEANS, A SEARCH AND
3 HANDLING FEE OF TWENTY DOLLARS AND FORTY CENTS PER PAGE FOR THE
4 FIRST THIRTY PAGES, TWENTY-FIVE CENTS PER PAGE FOR PAGES
5 THIRTY-ONE THROUGH ONE HUNDRED, FIFTEEN CENTS PER PAGE FOR PAGES
6 ONE HUNDRED ONE THROUGH FIVE HUNDRED, AND TEN CENTS PER PAGE
7 FOR ALL PAGES THEREAFTER UP TO A TOTAL AMOUNT NOT TO EXCEED ONE
8 HUNDRED FIFTY DOLLARS; EXCEPT THAT, IF THE RECORD EXCEEDS TWO
9 THOUSAND PAGES, THE MAXIMUM AMOUNT CHARGED MUST BE NO MORE
10 THAN TWO HUNDRED FIFTY DOLLARS, UNLESS THE RECORDS ARE STORED
11 ON MICROFILM, IN WHICH CASE, ONE DOLLAR AND FIFTY CENTS PER PAGE
12 MAY BE CHARGED; OR

13 (C) A PERSON OR ENTITY THAT DOES NOT REPRESENT THE PATIENT
14 OR PATIENT'S PERSONAL REPRESENTATIVE WHO REQUESTS THE RECORDS
15 UPON SUBMISSION OF A HIPAA-COMPLIANT AUTHORIZATION, VALID
16 SUBPOENA, OR COURT ORDER AND UPON THE PAYMENT OF THE
17 REASONABLE FEES DEFINED IN SUBSECTION (5)(c)(I) OF THIS SECTION,
18 WHETHER THE RECORD IS PRODUCED ON PAPER OR ELECTRONICALLY.

19 (II) THE HEALTH-CARE FACILITY SHALL DELIVER THE MEDICAL
20 RECORDS IN ELECTRONIC FORMAT IF:

21 (A) THE PERSON OR ENTITY REQUESTS ELECTRONIC FORMAT;

22 (B) THE ORIGINAL MEDICAL RECORDS ARE STORED IN ELECTRONIC
23 FORMAT; AND

24 (C) THE MEDICAL RECORDS ARE READILY PRODUCIBLE IN
25 ELECTRONIC FORMAT.

26 ~~(H)~~ (III) In the event that a licensed health-care professional
27 determines that a copy of any X ray, mammogram, CT SCAN, MRI, or

1 other film is not sufficient for diagnostic or other treatment purposes, the
2 ~~health~~ HEALTH-CARE facility or entity shall make the original of any such
3 film available to the patient or another health-care professional or facility
4 as specifically directed by the patient pursuant to a written
5 authorization-request for films and upon the payment of the reasonable
6 costs for such film. If a ~~health~~ HEALTH-CARE facility releases an original
7 film pursuant to this ~~subparagraph (H)~~ SUBSECTION (1)(b)(III), it ~~shall~~ IS
8 not be responsible for any loss, damage, or other consequences as a result
9 of such release. Any original X ray, mammogram, CT SCAN, MRI, or
10 other film made available pursuant to this ~~subparagraph (H)~~ shall
11 SUBSECTION (1)(b)(III) MUST be returned upon request to the lending
12 HEALTH-CARE facility within thirty days.

13 **SECTION 2. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.