

CHAPTER 400

HEALTH AND ENVIRONMENT

HOUSE BILL 26-1414

BY REPRESENTATIVE(S) McCluskie and Camacho, Bacon, Boesenecker, Carter, Duran, Lieder, Lindsay, Nguyen, Ricks, Rutine;
also SENATOR(S) Roberts and Kipp, Benavidez, Cutter, Kolker, Marchman, Snyder, Coleman.

AN ACT**CONCERNING THE PROVISION OF MEDICAL RECORDS IN THE CUSTODY OF CERTAIN HEALTH-CARE ENTITIES.**

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

SECTION 1. In Colorado Revised Statutes, 25-1-801, **amend** (1)(b)(I)(A); and **add** (1)(b)(III), (1)(b)(IV), (1)(e), (1)(f), and (1)(g) as follows:

25-1-801. Patient records in custody of health-care facility - definitions.

(1) (b) (I) (A) A health facility licensed or certified pursuant to section 25-1.5-103 (1) or article 3 of this title, ~~or both,~~ TITLE 25 or an entity regulated under title 10, ~~C.R.S.~~, providing health-care services, as defined in section 10-16-102, ~~(33), C.R.S.~~, directly or indirectly through a managed care plan, as defined in section 10-16-102 ~~(43), C.R.S.~~, or otherwise, must provide copies of a patient's medical records, including X rays, to the patient or the patient's personal representative upon request and payment of the fee a covered entity may impose in accordance with the "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, and any rules promulgated pursuant to the act, or to a third person who requests the records upon submission of a HIPAA-compliant authorization, valid subpoena, or court order and upon the payment of the reasonable fees. FOR A REQUEST NOT EXCEEDING SIX HUNDRED SIXTY-FOUR PAGES, THE FEES CHARGED TO A THIRD PERSON SHALL NOT EXCEED THE REASONABLE FEES.

(III) THE TOTAL SUM OF FEES THAT A HEALTH-CARE FACILITY MAY CHARGE AND COLLECT FOR A RECORD REQUEST MADE BY AN ATTORNEY WHO REPRESENTS THE PATIENT OR THE ATTORNEY OF THE PATIENT'S PERSONAL REPRESENTATIVE, PURSUANT TO A SUBMISSION OF AN AUTHORIZATION IN COMPLIANCE WITH THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-91; A VALID SUBPOENA; OR A VALID COURT ORDER, IF THE REQUESTED RECORD EXCEEDS SIX HUNDRED SIXTY-FOUR PAGES, MUST NOT EXCEED FOUR HUNDRED DOLLARS.

(IV) ON JANUARY 1, 2028, AND EVERY JANUARY 1 EVERY EVEN-NUMBERED YEAR THEREAFTER, THE FOUR-HUNDRED-DOLLAR LIMIT SET FORTH IN SUBSECTION (1)(b)(III) OF THIS SECTION MUST BE ADJUSTED FOR INFLATION. THE ADJUSTED LIMIT MUST BE ROUNDED TO THE NEAREST WHOLE DOLLAR. THE SECRETARY OF STATE SHALL PUBLISH THE ADJUSTED LIMIT ON ITS WEBSITE NO LATER THAN OCTOBER 1 OF EVERY YEAR THE LIMIT IS SUBJECT TO AN ADJUSTMENT. THE ADJUSTED LIMIT MUST NOT BE DECREASED BELOW FOUR HUNDRED DOLLARS. AS USED IN THIS SUBSECTION (1)(b)(IV), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(e) SUBSECTION (1)(b)(III) OF THIS SECTION DOES NOT APPLY IF A HEALTH-CARE FACILITY IS REQUIRED TO SEGREGATE, WITHHOLD, OR REDACT PROTECTED HEALTH INFORMATION FROM THE REQUESTED RECORD TO COMPLY WITH APPLICABLE LAW OR WITHIN THE SCOPE OR LIMITATIONS DETAILED IN SUBSECTION (1)(b)(III) OF THIS SECTION.

(f) (I) THE HEALTH-CARE FACILITY SHALL DELIVER THE MEDICAL RECORDS IN ELECTRONIC FORMAT, UPON REQUEST AND PAYMENT OF THE FEES DETAILED IN THIS SUBSECTION (1), IF:

- (A) THE INDIVIDUAL OR ENTITY REQUESTS ELECTRONIC FORMAT;
- (B) THE ORIGINAL MEDICAL RECORDS ARE STORED IN ELECTRONIC FORMAT; AND
- (C) THE MEDICAL RECORDS ARE READILY PRODUCIBLE IN ELECTRONIC FORMAT.

(II) AN INVOICE FOR ALL RECORDS PROVIDED IN RESPONSE TO A REQUEST FOR MEDICAL RECORDS MUST BE PROVIDED TO THE REQUESTOR WITHIN THIRTY DAYS OF RECEIVING A VALID REQUEST, AND THE RECORDS MUST BE PROVIDED UPON PAYMENT OF THE INVOICE.

(III) IF A HEALTH-CARE FACILITY IS UNABLE TO PROVIDE ACCESS TO MEDICAL RECORDS WITHIN THIRTY DAYS, AS REQUIRED BY SUBSECTION (1)(f)(II) OF THIS SECTION, THE HEALTH-CARE FACILITY MAY EXTEND THE TIME FRAME FOR PROVIDING RECORDS BY AN ADDITIONAL THIRTY DAYS AND THE HEALTH-CARE FACILITY MUST NOTIFY THE REQUESTOR IN WRITING OF THE EXTENSION WITHIN THE INITIAL THIRTY-DAY PERIOD.

(IV) A RECORD NOT PROVIDED WITHIN THIRTY DAYS OR WITHOUT WRITTEN NOTIFICATION OF A THIRTY-DAY EXTENSION MUST BE PROVIDED TO THE REQUESTOR AT NO COST, ABSENT AN INDEPENDENT INTERVENING FORCE MAJEURE THAT RENDERS THE REQUESTED RECORDS INACCESSIBLE, IRRETRIEVABLE, OR UNDELIVERABLE WITHIN THE REQUIRED TIME FRAME. IF A HEALTH-CARE FACILITY IS UNABLE TO COMPLY WITH A REQUEST FOR MEDICAL RECORDS WITHIN THE TIME REQUIRED

PURSUANT TO THIS SUBSECTION (1)(f)(IV) DUE TO A FORCE MAJEURE EVENT, THE FACILITY SHALL PROVIDE WRITTEN NOTICE TO THE REQUESTOR. THE NOTICE MUST BE GIVEN AS SOON AS REASONABLY PRACTICABLE, BUT NOT LATER THAN FIVE BUSINESS DAYS AFTER THE FACILITY BECOMES AWARE OF THE FORCE MAJEURE EVENT. FOR EXISTING REQUESTS, OR NOT LATER THAN FIVE BUSINESS DAYS AFTER RECEIPT OF A NEW REQUEST, THE THIRTY DAY TIME PERIOD TO RESPOND TO A REQUEST FOR RECORDS COMMENCES UPON RESOLUTION OF THE FORCE MAJEURE EVENT. THE ENTITY SHALL NOTIFY THE REQUESTOR WITHIN FIVE BUSINESS DAYS AFTER THE FORCE MAJEURE EVENT HAS BEEN RESOLVED. ALL NOTICES REQUIRED PURSUANT TO THIS SUBSECTION (1)(f)(IV) MUST BE DELIVERED IN THE SAME FORMAT IN WHICH IT WAS RECEIVED. AS USED IN THIS SUBSECTION (1)(f)(IV), "FORCE MAJEURE" MEANS A FACTOR OUTSIDE THE PARTIES' CONTROL THAT MEANS PERFORMANCE OF THE TASK IS IMPOSSIBLE OR IMPRACTICABLE AS A RESULT OF AN EVENT OR EFFECT THAT THE PARTIES COULD NOT HAVE ANTICIPATED OR CONTROLLED.

(g) NOTHING IN SUBSECTION (1)(b), (1)(e), OR (1)(f) OF THIS SECTION REQUIRES A HEALTH-CARE FACILITY TO DISCLOSE INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR PROTECTED FROM DISCOVERY OR ADMISSION UNDER STATE OR FEDERAL LAW, INCLUDING PURSUANT TO SECTIONS 12-30-204 AND 25-3-109, OR 42 U.S.C. SEC. 1320c-1.

SECTION 2. In Colorado Revised Statutes, 25-1-802, **amend** (1)(b)(I)(A); and **add** (1)(b)(III), (1)(b)(IV), (1)(e), (1)(f), and (1)(g) as follows:

25-1-802. Patient records in custody of individual health-care providers - definitions.

(1) (b) (I) (A) A health facility licensed or certified pursuant to section 25-1.5-103 (1) or article 3 of this ~~title, or both,~~ TITLE 25, or an entity regulated under title 10, ~~C.R.S.~~; providing health-care services, as defined in section 10-16-102, ~~(33), C.R.S.~~, directly or indirectly through a managed care plan, as defined in section 10-16-102 ~~(43), C.R.S.~~, or otherwise, must provide copies of a patient's medical records, including X rays, to the patient or the patient's personal representative upon request and payment of the fee a covered entity may impose in accordance with the "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, and any rules promulgated pursuant to the act, or to a third person who requests the records upon submission of a HIPAA-compliant authorization, valid subpoena, or court order and upon the payment of the reasonable fees. FOR A REQUEST NOT EXCEEDING SIX HUNDRED SIXTY-FOUR PAGES, THE FEES CHARGED TO A THIRD PERSON SHALL NOT EXCEED THE REASONABLE FEES.

(III) THE TOTAL SUM OF FEES THAT A HEALTH-CARE PROVIDER MAY CHARGE AND COLLECT FOR A RECORD REQUEST MADE BY AN ATTORNEY WHO REPRESENTS THE PATIENT OR THE ATTORNEY OF THE PATIENT'S PERSONAL REPRESENTATIVE, PURSUANT TO A SUBMISSION OF AN AUTHORIZATION IN COMPLIANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-91, A VALID SUBPOENA, OR A VALID COURT ORDER, IF THE REQUESTED RECORD EXCEEDS SIX HUNDRED SIXTY-FOUR PAGES, MUST NOT EXCEED FOUR HUNDRED DOLLARS.

(IV) ON JANUARY 1, 2028, AND EVERY JANUARY 1 EVERY EVEN-NUMBERED YEAR THEREAFTER, THE FOUR-HUNDRED-DOLLAR LIMIT SET FORTH IN SUBSECTION (1)(b)(III) OF THIS SECTION MUST BE ADJUSTED FOR INFLATION. THE ADJUSTED LIMIT MUST BE ROUNDED TO THE NEAREST WHOLE DOLLAR. THE SECRETARY OF STATE SHALL PUBLISH THE ADJUSTED LIMIT ON ITS WEBSITE NO LATER THAN OCTOBER 1 OF EVERY YEAR THE LIMIT IS SUBJECT TO AN ADJUSTMENT. THE ADJUSTED LIMIT MUST NOT BE DECREASED BELOW FOUR HUNDRED DOLLARS. AS USED IN THIS SUBSECTION (1)(b)(IV), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

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

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(IV) A RECORD NOT PROVIDED WITHIN THIRTY DAYS OR WITHOUT WRITTEN NOTIFICATION OF A THIRTY-DAY EXTENSION MUST BE PROVIDED TO THE REQUESTOR AT NO COST, ABSENT AN INDEPENDENT INTERVENING FORCE MAJEURE THAT RENDERS THE REQUESTED RECORDS INACCESSIBLE, IRRETRIEVABLE, OR UNDELIVERABLE WITHIN THE REQUIRED TIME FRAME. IF A HEALTH-CARE FACILITY IS UNABLE TO COMPLY WITH A REQUEST FOR MEDICAL RECORDS WITHIN THE TIME REQUIRED PURSUANT TO THIS SUBSECTION (1)(f)(IV) DUE TO A FORCE MAJEURE EVENT, THE FACILITY SHALL PROVIDE WRITTEN NOTICE TO THE REQUESTOR. THE NOTICE MUST BE GIVEN AS SOON AS REASONABLY PRACTICABLE, BUT NOT LATER THAN FIVE BUSINESS DAYS AFTER THE FACILITY BECOMES AWARE OF THE FORCE MAJEURE EVENT. FOR EXISTING REQUESTS, OR NOT LATER THAN FIVE BUSINESS DAYS AFTER

RECEIPT OF A NEW REQUEST, THE THIRTY DAY TIME PERIOD TO RESPOND TO A REQUEST FOR RECORDS COMMENCES UPON RESOLUTION OF THE FORCE MAJEURE EVENT. THE ENTITY SHALL NOTIFY THE REQUESTOR WITHIN FIVE BUSINESS DAYS AFTER THE FORCE MAJEURE EVENT HAS BEEN RESOLVED. ALL NOTICES REQUIRED PURSUANT TO THIS SUBSECTION (1)(f)(IV) MUST BE DELIVERED IN THE SAME FORMAT IN WHICH IT WAS RECEIVED. AS USED IN THIS SUBSECTION (1)(f)(IV), "FORCE MAJEURE" MEANS A FACTOR OUTSIDE THE PARTIES' CONTROL THAT MEANS PERFORMANCE OF THE TASK IS IMPOSSIBLE OR IMPRACTICABLE AS A RESULT OF AN EVENT OR EFFECT THAT THE PARTIES COULD NOT HAVE ANTICIPATED OR CONTROLLED.

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SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 4, 2026