

1                                   A bill to be entitled  
 2           An act relating to medical records; amending s.  
 3           395.3025, F.S.; revising provisions relating to the  
 4           reproduction of patient reports or records by a  
 5           hospital, ambulatory surgical center, or mobile  
 6           surgical facility; providing that the fee for  
 7           reproduction may not exceed certain specified costs;  
 8           authorizing licensed facilities to develop a schedule  
 9           of costs for labor; authorizing licensed facilities to  
 10          charge a specified flat fee for an electronic copy of  
 11          patient records; amending s. 456.057, F.S.; revising  
 12          provisions relating to the reproduction of patient  
 13          reports or records by a health care practitioner or  
 14          records owner to include businesses operating on  
 15          behalf of such practitioner or records owner;  
 16          providing that the fee for reproduction may not exceed  
 17          certain specified costs or a specified flat fee;  
 18          removing rulemaking authority of a board or department  
 19          to determine the cost of reproduction of patient  
 20          reports or records; providing an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

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 24           Section 1. Subsection (1) of section 395.3025, Florida  
 25          Statutes, is amended to read:

26 395.3025 Patient and personnel records; copies;  
 27 examination.—

28 (1) (a) Any licensed facility shall, upon written request,  
 29 and only after discharge of the patient, furnish, in a timely  
 30 manner, without delays for legal review, to any person admitted  
 31 therein for care and treatment or treated thereat, or to any  
 32 such person's guardian, curator, or personal representative, or  
 33 in the absence of one of those persons, to the next of kin of a  
 34 decedent or the parent of a minor, or to anyone designated by  
 35 such listed persons ~~person~~ in writing, a true and correct copy  
 36 of all patient records and reports, including X rays, and  
 37 insurance information concerning such person, which records are  
 38 in the possession of the licensed facility, provided the person  
 39 requesting such records agrees to pay a charge, to be determined  
 40 by the licensed facility. The ~~exclusive~~ charge for furnishing  
 41 physical copies of patient records and reports or making the  
 42 records and reports available for digital scanning pursuant to  
 43 this section may not exceed a reasonable fee based on the actual  
 44 cost of copying, including the cost of:

- 45 1. Labor required for copying the patient records and  
 46 reports requested by the person, whether on paper or in  
 47 electronic form. Labor required for copying such records and  
 48 reports is limited to the labor for creating and delivering the  
 49 electronic copy or paper copy in the format requested or agreed  
 50 upon by the requestor and does not include the cost of reviewing

51 the request and searching for, retrieving, and otherwise  
52 preparing the records and reports for copying;

53 2. Supplies used to create a paper copy or if requested,  
54 the electronic media necessary to furnish an electronic copy on  
55 portable media;

56 3. Postage, if the person requests that the records and  
57 reports be mailed; and

58 4. Preparation of an explanation or summary of the patient  
59 records, if agreed to in advance by the person requesting such  
60 records.

61 (b) In lieu of calculating the cost of labor individually  
62 for each request, a licensed facility, or a business operating  
63 on behalf of such facility, may develop a schedule of costs of  
64 labor based on the average costs of labor to fulfill standard  
65 requests only if the costs of labor included in the schedule are  
66 limited pursuant to subparagraph (a)1.

67 (c) A licensed facility, or a business operating on behalf  
68 of such facility, may charge a flat fee of no more than \$6.50 in  
69 lieu of calculating the actual costs pursuant to paragraph (a),  
70 for a request for an electronic copy of patient records and  
71 reports maintained electronically, inclusive of labor, supplies,  
72 and applicable postage. Such fee may not include costs  
73 associated with updates to or maintenance of systems and data,  
74 capital for data storage and maintenance, labor associated with  
75 ensuring compliance with 45 C.F.R. s. 164.524 and other

76 applicable laws, administrative costs, other costs associated  
77 with outsourcing the response to individual requests for patient  
78 records and reports, or other costs not included in this  
79 subsection may include sales tax and actual postage, and, except  
80 for nonpaper records that are subject to a charge not to exceed  
81 \$2, may not exceed \$1 per page. A fee of up to \$1 may be charged  
82 for each year of records requested. These charges shall apply to  
83 all records furnished, whether directly from the facility or  
84 from a copy service providing these services on behalf of the  
85 facility. However, a patient whose records are copied or  
86 searched for the purpose of continuing to receive medical care  
87 is not required to pay a charge for copying or for the search.  
88 The licensed facility shall further allow any such person to  
89 examine the original records in its possession, or microforms or  
90 other suitable reproductions of the records, upon such  
91 reasonable terms as shall be imposed to assure that the records  
92 will not be damaged, destroyed, or altered.

93 Section 2. Subsection (17) of section 456.057, Florida  
94 Statutes, is amended to read:

95 456.057 Ownership and control of patient records; report  
96 or copies of records to be furnished; disclosure of  
97 information.—

98 (17) (a) A health care practitioner or records owner, or a  
99 business operating on behalf of such practitioner or owner, that  
100 furnishes ~~furnishing~~ copies of reports or records or makes

101 ~~making~~ the reports or records available for digital scanning  
102 pursuant to this section to a patient, patient's guardian,  
103 curator, or personal representative, or in the absence of such  
104 person, to the next of kin of a decedent or the parent of a  
105 minor, or to anyone designated by such listed persons in  
106 writing, shall charge no more than the actual cost of:

107 1. Labor required for copying the patient records and  
108 reports requested by the person, whether on paper or in  
109 electronic form. Labor required for copying such records and  
110 reports is limited to the labor for creating and delivering the  
111 electronic copy or paper copy in the format requested or agreed  
112 upon by the requestor and does not include the cost of reviewing  
113 the request and searching for, retrieving, and otherwise  
114 preparing the records and reports for copying;

115 2. Supplies used to create a paper copy or if requested,  
116 the electronic media necessary to furnish an electronic copy on  
117 portable media;

118 3. Postage, if the person requests that the records and  
119 reports be mailed; and

120 4. Preparation of an explanation or summary of the patient  
121 records, if agreed to in advance by the person requesting such  
122 records.

123 (b) In lieu of calculating the cost of labor individually  
124 for each request, the health care practitioner or records owner,  
125 or a business operating on behalf of such practitioner or

126 records owner, may develop a schedule of costs of labor based on  
127 the average costs of labor to fulfill standard requests only if  
128 the costs of labor included in the schedule are limited pursuant  
129 to subparagraph (a)1.

130 (c) A health care practitioner or records owner, or  
131 business operating on behalf of such practitioner or records  
132 owner, may charge a flat fee of no more than \$6.50, in lieu of  
133 calculating the actual costs pursuant to paragraph (a), for a  
134 request for an electronic copy of patient records and reports  
135 maintained electronically, inclusive of labor, supplies, and  
136 applicable postage. Such fee may not include costs associated  
137 with updates to or maintenance of systems and data, capital for  
138 data storage and maintenance, labor associated with ensuring  
139 compliance with 45 C.F.R. s. 164.524 and other applicable laws,  
140 administrative costs, other costs associated with outsourcing  
141 the response to individual requests for patient records and  
142 reports, or other costs not included in this subsection ~~copying,~~  
143 ~~including reasonable staff time, or the amount specified in~~  
144 ~~administrative rule by the appropriate board, or the department~~  
145 ~~when there is no board.~~

146 Section 3. This act shall take effect upon becoming a law.