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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services
(Harrell) recommended the following:

Senate Amendment

Delete lines 119 - 407
and insert:

(a) The reasonable costs of reproducing copies of written or typed documents or reports, in any format or medium, may not exceed \$1 per page for the first 25 pages and 25 cents per page for all pages thereafter.

(b) The reasonable costs of reproducing X-rays and other forms of images shall be the actual costs. Actual costs shall be



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11 the sum of the cost of the material and supplies used to
12 duplicate the record and the labor and overhead costs associated
13 with the duplication.

14 (c) If the nature or volume of the clinical records
15 requested to be copied requires extensive use of information
16 technology resources or extensive clerical or supervisory
17 assistance by personnel of the service provider, or both, the
18 service provider may charge, in addition to the charges imposed
19 under paragraphs (a) and (b), a special service charge, which
20 shall be reasonable and shall be based on the cost incurred for
21 such extensive use of information technology resources or the
22 labor cost of the personnel providing the service which is
23 actually incurred by the service provider or attributable to the
24 service provider for the clerical and supervisory assistance
25 required, or both.

26 (d) The charges established in this subsection apply to all
27 records furnished, whether directly from a service provider or
28 from a copy service acting on behalf of the service provider.
29 However, a patient whose records are copied or searched for the
30 purpose of continuing to receive care is not required to pay a
31 charge for copying or for the search.

32 Section 2. Subsection (1) and paragraph (e) of subsection
33 (4) of section 395.3025, Florida Statutes, are amended to read:

34 395.3025 Patient and personnel records; copies;
35 examination.-

36 (1)(a) Any licensed facility shall, upon written request,
37 and only after discharge of the patient, furnish, in a timely
38 manner as provided in paragraph (b), without delays for legal
39 review, to any person admitted therein for care and treatment or



40 treated thereat, or to any such person's guardian, curator, or
41 personal representative, or in the absence of one of those
42 persons, to the next of kin of a decedent or the parent of a
43 minor, or to anyone designated by such person in writing, a true
44 and correct copy of all patient records, including X rays, and
45 insurance information concerning such person, which records are
46 in the possession of the licensed facility, provided the person
47 requesting such records agrees to pay a charge as provided in
48 paragraph (d).

49 (b) Within 14 working days after receiving a request made
50 in accordance with paragraph (a), a licensed facility must
51 furnish applicable patient records in its possession.

52 (c) If a licensed facility maintains a system of electronic
53 health records as defined in s. 408.051, the licensed facility
54 shall furnish the requested records in the manner chosen by the
55 requester, which may include paper documents, electronic format,
56 access through a web-based patient portal, or submission through
57 a patient's electronic personal health record.

58 (d) The licensed facility may charge a requester no more
59 than the reasonable costs of reproducing the patient records,
60 including reasonable staff time.

61 1. The reasonable costs of reproducing copies of written or
62 typed documents or reports, in any format or medium, may not
63 exceed \$1 per page for the first 25 pages and 25 cents per page
64 for all pages thereafter.

65 2. The reasonable costs of reproducing X-rays and other
66 forms of images shall be the actual costs. Actual costs shall be
67 the sum of the cost of the material and supplies used to
68 duplicate the record and the labor and overhead costs associated



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69 with the duplication.

70 3. If the nature or volume of the patient records requested
71 to be copied requires extensive use of information technology
72 resources or extensive clerical or supervisory assistance by
73 personnel of the licensed facility, or both, the licensed
74 facility may charge, in addition to the charges imposed under
75 subparagraphs 1. and 2., a special service charge, which shall
76 be reasonable and shall be based on the cost incurred for such
77 extensive use of information technology resources or the labor
78 cost of the personnel providing the service which is actually
79 incurred by the licensed facility or attributable to the
80 licensed facility for the clerical and supervisory assistance
81 required, or both.

82 4. The charges established in this paragraph ~~The exclusive~~
83 ~~charge for copies of patient records may include sales tax and~~
84 ~~actual postage, and, except for nonpaper records that are~~
85 ~~subject to a charge not to exceed \$2, may not exceed \$1 per~~
86 ~~page. A fee of up to \$1 may be charged for each year of records~~
87 ~~requested. These charges shall~~ apply to all records furnished,
88 whether directly from the facility or from a copy service acting
89 ~~providing these services~~ on behalf of the facility. However, a
90 patient whose records are copied or searched for the purpose of
91 continuing to receive ~~medical~~ care is not required to pay a
92 charge for copying or for the search.

93 (e) If a person authorized to receive copies of patient
94 records under paragraph (a) requests to examine the licensed
95 facility's original records pertaining to the patient, the
96 licensed facility shall, within 10 working days after receiving
97 such a request, provide such person with access to examine such



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98 original records, microforms, or other suitable reproductions of
99 such records in its possession. A licensed facility may impose
100 any reasonable terms necessary to ensure ~~further allow any such~~
101 ~~person to examine the original records in its possession, or~~
102 ~~microforms or other suitable reproductions of the records, upon~~
103 ~~such reasonable terms as shall be imposed to assure that the~~
104 records will not be damaged, destroyed, or altered.

105 (4) Patient records are confidential and may ~~must~~ not be
106 disclosed without the consent of the patient or his or her legal
107 representative; however, ~~but~~ appropriate disclosure may be made
108 without such consent to:

109 (e) The department agency upon subpoena issued pursuant to
110 s. 456.071, but the records obtained thereby must be used solely
111 for the purpose of the department agency and the appropriate
112 professional board in its investigation, prosecution, and appeal
113 of disciplinary proceedings. If the department agency requests
114 copies of the records, the facility shall charge no more than
115 its actual copying costs, including reasonable staff time. The
116 records must be sealed and must not be available to the public
117 pursuant to s. 119.07(1) or any other statute providing access
118 to records, nor may they be available to the public as part of
119 the record of investigation for and prosecution in disciplinary
120 proceedings made available to the public by the department
121 ~~agency~~ or the appropriate regulatory board. However, the
122 department agency must make available, upon written request by a
123 practitioner against whom probable cause has been found, any
124 such records that form the basis of the determination of
125 probable cause.

126 Section 3. Present paragraphs (a) through (j) of subsection



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127 (7) of section 397.501, Florida Statutes, are redesignated as
128 paragraphs (d) through (m), respectively, and new paragraphs
129 (a), (b), and (c) are added to that subsection, to read:

130 397.501 Rights of individuals.—Individuals receiving
131 substance abuse services from any service provider are
132 guaranteed protection of the rights specified in this section,
133 unless otherwise expressly provided, and service providers must
134 ensure the protection of such rights.

135 (7) RIGHT TO ACCESS TO AND CONFIDENTIALITY OF INDIVIDUAL
136 RECORDS.—

137 (a)1. Within 14 working days after receiving a written
138 request from an individual or an individual's legal
139 representative, a service provider shall furnish a true and
140 correct copy of all records pertaining to that individual in the
141 possession of the service provider.

142 2. For the purpose of this subsection, the term "legal
143 representative" means an individual's legal guardian or, if the
144 individual is younger than 18 years old, the individual's parent
145 or legal guardian.

146 3. If a service provider maintains a system of electronic
147 health records as defined in s. 408.051, the service provider
148 shall furnish the requested records in the manner chosen by the
149 requester, which may include paper documents, electronic format,
150 access through a web-based patient portal, or submission through
151 an individual's electronic personal health record.

152 (b) A service provider may charge the requester no more
153 than the reasonable costs of reproducing the records, including
154 reasonable staff time.

155 1. The reasonable costs of reproducing copies of written or



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156 typed documents or reports, in any format or medium, may not
157 exceed \$1 per page for the first 25 pages and 25 cents per page
158 for all pages thereafter.

159 2. The reasonable costs of reproducing X-rays and such
160 other kinds of records shall be the actual costs. Actual costs
161 are the sum of the cost of the material and supplies used to
162 duplicate the records and the labor and overhead costs
163 associated with the duplication.

164 3. If the nature or volume of the records requested to be
165 copied requires extensive use of information technology
166 resources or extensive clerical or supervisory assistance by
167 personnel of the service provider, or both, the service provider
168 may charge, in addition to the charges imposed under
169 subparagraphs 1. and 2., a special service charge, which shall
170 be reasonable and shall be based on the cost incurred for such
171 extensive use of information technology resources or the labor
172 cost of the personnel providing the service which is actually
173 incurred by the service provider or attributable to the service
174 provider for the clerical and supervisory assistance required,
175 or both.

176 4. The charges established in this paragraph apply to all
177 records furnished, whether directly from a service provider or
178 from a copy service acting on behalf of the service provider.
179 However, an individual whose records are copied or searched for
180 the purpose of continuing to receive care is not required to pay
181 a charge for copying or for the search.

182 (c) Within 10 working days after receiving a request from
183 an individual or an individual's legal representative to examine
184 the service provider's original records pertaining to that



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185 individual, a service provider shall provide access to examine
186 such original records, microforms, or other suitable
187 reproductions of such records in its possession. A service
188 provider may impose any reasonable terms necessary to ensure
189 that the records will not be damaged, destroyed, or altered.

190 Section 4. Subsections (1) and (4) of section 400.145,
191 Florida Statutes, are amended to read:

192 400.145 Copies of records of care and treatment of
193 resident.—

194 (1) Upon receipt of a written request that complies with
195 the federal Health Insurance Portability and Accountability Act
196 of 1996 (HIPAA) and this section, a nursing home facility shall
197 furnish to a competent resident, or to a representative of that
198 resident who is authorized to make requests for the resident's
199 records under HIPAA or subsection (2), copies of the resident's
200 paper and electronic records that are in possession of the
201 facility. Such records must include any medical records and
202 records concerning the care and treatment of the resident
203 performed by the facility, except for progress notes and
204 consultation report sections of a psychiatric nature. The
205 facility shall provide copies of the requested records according
206 to the timeframe requirements of 42 C.F.R. s. 483.10(g)(2)(ii)
207 for ~~within 14 working days after receipt of~~ a request relating
208 to a current resident or within 30 working days after receipt of
209 a request relating to a former resident.

210 (4)(a) After receiving a request made in accordance with
211 subsections (1)-(3), a nursing home facility must furnish
212 applicable records in its possession in accordance with the
213 timeframe requirements of subsection (1) and the provisions of



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214 this subsection.

215 (b) If a nursing home facility maintains a system of
216 electronic health records as defined in s. 408.051, the facility
217 shall furnish the requested records in the manner chosen by the
218 requester, which may include paper documents, electronic format,
219 or access through a web-based portal.

220 (c) The nursing home facility may charge a requester no
221 more than the reasonable costs of reproducing the records,
222 including reasonable staff time.

223 1. The reasonable costs of reproducing copies of written or
224 typed documents or reports, in any format or medium, may not
225 exceed \$1 per page for the first 25 pages and 25 cents per page
226 for all pages thereafter.

227 2. The reasonable costs of reproducing X-rays and other
228 forms of images shall be the actual costs. Actual costs shall be
229 the sum of the cost of the material and supplies used to
230 duplicate the record and the labor and overhead costs associated
231 with the duplication.

232 3. If the nature or volume of the records requested to be
233 copied requires extensive use of information technology
234 resources or extensive clerical or supervisory assistance by
235 personnel of the nursing home facility, or both, the facility
236 may charge, in addition to the charges imposed under
237 subparagraphs 1. and 2., a special service charge, which shall
238 be reasonable and shall be based on the cost incurred for such
239 extensive use of information technology resources or the labor
240 cost of the personnel providing the service which is actually
241 incurred by the facility or attributable to the facility for the
242 clerical and supervisory assistance required, or both.



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243 4. The charges established in this paragraph apply to all
244 records furnished, whether directly from a nursing home facility
245 or from a copy service acting on behalf of the facility.
246 However, a resident whose records are copied or searched for the
247 purpose of continuing to receive care is not required to pay a
248 charge for copying or for the search

249 (d) Within 10 working days after receiving a request from a
250 person who is authorized to act on behalf of a resident to
251 examine the nursing home facility's original records pertaining
252 to the resident, the facility shall provide access to examine
253 such original records, microforms, or other suitable
254 reproductions of such records in its possession. A facility may
255 impose any reasonable terms necessary ~~A nursing home facility~~
256 ~~may charge a reasonable fee for the copying of resident records.~~
257 ~~Such fee may not exceed \$1 per page for the first 25 pages and~~
258 ~~25 cents per page for each additional page. The facility shall~~
259 ~~allow a person who is authorized to act on behalf of the~~
260 ~~resident to examine the original records, microfilms, or other~~
261 ~~suitable reproductions of the records in its possession upon any~~
262 ~~reasonable terms imposed by the facility to ensure that the~~
263 ~~records are not damaged, destroyed, or altered.~~

264 Section 5. Subsections (6) and (17) of section 456.057,
265 Florida Statutes, are amended to read:

266 456.057 Ownership and control of patient records; report or
267 copies of records to be furnished; disclosure of information.-

268 (6) (a) Any health care practitioner licensed by the
269 department or a board within the department who makes a physical
270 or mental examination of, or administers treatment or dispenses
271 legend drugs to, any person shall, upon written request of such



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272 person or the person's legal representative, furnish, within 14
273 working days after such request ~~in a timely manner, without~~
274 ~~delays for legal review,~~ copies of all reports and records
275 relating to such examination or treatment, including X-rays *
276 ~~rays~~ and insurance information. If the health care practitioner
277 maintains a system of electronic health records as defined in s.
278 408.051, the health care practitioner shall furnish the
279 requested records in the manner chosen by the requester, which
280 may include paper documents, electronic format, access through a
281 web-based patient portal, or submission through a patient's
282 electronic personal health record.

283 (b) Within 10 working days after receiving a written
284 request by a patient or the patient's legal representative to
285 examine the health care practitioner's original reports and
286 records pertaining to the patient, a health care practitioner
287 must provide access to examine such original reports and
288 records, or microforms or other suitable reproductions of the
289 reports and records in the health care practitioner's
290 possession. The health care practitioner may impose any
291 reasonable terms necessary to ensure that the reports and
292 records will not be damaged, destroyed, or altered.

293 (c) For the purposes of this subsection, the term "legal
294 representative" means a patient's legal guardian or, if the
295 patient is younger than 18 years old, the patient's parent or
296 legal guardian.

297 (d) However, When a patient's psychiatric, chapter 490
298 psychological, or chapter 491 psychotherapeutic records are
299 requested by the patient or the patient's legal representative,
300 the health care practitioner may provide a report of examination



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301 and treatment in lieu of copies of records. Upon a patient's
302 written request, complete copies of the patient's psychiatric
303 records shall be provided directly to a subsequent treating
304 psychiatrist. The furnishing of such report or copies may ~~shall~~
305 not be conditioned upon payment of a fee for services rendered.

306 (17) A licensed health care practitioner may charge the
307 requester no more than the reasonable costs of reproducing the
308 reports and records, including reasonable staff time.

309 (a) The reasonable costs of reproducing copies of written
310 or typed documents or reports, in any format or medium, may not
311 exceed \$1 per page