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HOUSE BILL 317

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Jane E. Powdrell-Culbert

AN ACT

RELATING TO HEALTH AND HOSPITAL RECORDS; ESTABLISHING LIMITS ON FEES CHARGED FOR COPYING MEDICAL RECORDS; AMENDING A SECTION OF THE NMSA 1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 14-6-3 NMSA 1978 (being Laws 1999, Chapter 206, Section 1) is amended to read:

"14-6-3. ACCESS TO MEDICAL RECORDS [~~BY APPLICANTS FOR DISABILITY BENEFITS~~]--VIOLATIONS.--

A. Within thirty days of receiving a written request from a patient or former patient [~~who is applying for benefits based on social security disability or who is appealing a denial of such benefits~~] or from an authorized representative of such a patient or former patient, a health care provider shall furnish the requestor with a copy of that

underscored material = new  
[bracketed material] = delete

1 patient's medical records. [~~A fee as established by the~~  
2 ~~department of health may be charged by the health care provider~~  
3 ~~to the requestor for the copies or for the service in obtaining~~  
4 ~~the records.~~] A fee charged for copying medical records shall  
5 not exceed:

6 (1) for the first fifteen copies, one dollar  
7 (\$1.00) per page;

8 (2) for sixteen to forty copies, forty cents  
9 (\$ .40) per page;

10 (3) for forty-one copies or more, thirty cents  
11 (\$ .30) per page;

12 (4) for copies from microfilm, one dollar  
13 fifty cents (\$1.50) per page; or

14 (5) for mail delivery of the copy or copies,  
15 actual postage cost.

16 [~~B. A request made pursuant to Subsection A of this~~  
17 ~~section shall include a statement or document from the agency~~  
18 ~~that administers the benefits that confirms the application or~~  
19 ~~appeal.~~

20 ~~G.]~~ B. As used in this section:

21 (1) "health care provider" means a person who  
22 is licensed, certified or otherwise authorized by law to  
23 provide or render health care in the ordinary course of  
24 business or practice of a profession and includes a facility  
25 employing, or contracting with, such a person; and

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1                   (2) "medical records" means information in a  
2 medical or mental health patient file, including drug or  
3 alcohol treatment records, medical reports, clinical notes,  
4 nurses' notes, history of injury, subjective and objective  
5 complaints, test contents and results, interpretations of  
6 tests, reports and summaries of interpretations of tests and  
7 other reports, diagnoses and prognoses, bills, invoices,  
8 referral requests, consultative reports and reports of services  
9 requested by the health care provider.

10                   [~~D-~~] C. Nothing in this section shall be  
11 interpreted to grant access for a patient or patient's  
12 representative to medical records that are otherwise protected  
13 by law.

14                   [~~E-~~] D. The department of health shall enforce the  
15 provisions of this section and may impose a civil penalty in an  
16 amount not to exceed one hundred dollars (\$100) for a violation  
17 of this section. The department may promulgate rules necessary  
18 for the implementation and enforcement of the provisions of  
19 this section [~~including a fee schedule by obtaining records as~~  
20 ~~provided in Subsection A of this section for a patient who has~~  
21 ~~a financial ability to pay]."~~

22                   Section 2. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is April 1, 2005.

24                   Section 3. EMERGENCY.--It is necessary for the public  
25 peace, health and safety that this act take effect immediately.