



# Senate

General Assembly

January Session, 2015

**File No. 540**

Senate Bill No. 73

*Senate, April 8, 2015*

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING MEDICAL RECORDS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-7c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) For purposes of this section, "clinical laboratory" has the same  
4 meaning as provided in section 19a-30. "Clinical laboratory" does not  
5 include any state laboratory established by the Department of Public  
6 Health pursuant to section 19a-26 or 19a-29.

7 (b) Except as provided for in subsection [(e)] (i) of this section, a  
8 provider shall (1) supply to a patient upon request complete and  
9 current information possessed by that provider concerning any  
10 diagnosis, treatment and prognosis of the patient, and (2) notify a  
11 patient of any test results in the provider's possession or requested by  
12 the provider for the purposes of diagnosis, treatment or prognosis of  
13 such patient. In addition, upon the request of a patient or a provider  
14 who orders medical tests on behalf of a patient, a clinical laboratory

15 shall provide medical test results relating to the patient to (A) the  
16 patient, or (B) any other provider who is treating the patient for the  
17 purposes of diagnosis, treatment or prognosis of such patient.

18 (c) A provider, who requests that his or her patient submit to  
19 repeated medical testing at regular intervals, over a specified period of  
20 time, for purposes of ascertaining a diagnosis, prognosis or  
21 recommended course of treatment for such patient, may issue a single  
22 authorization that allows the entity that conducts such medical testing,  
23 including, but not limited to, a clinical laboratory, to directly  
24 communicate the results of such testing to the patient for the period of  
25 time that such testing is requested by the provider.

26 (d) [Upon] Except as provided in subsection (i) of this section, upon  
27 a written request of a patient, a patient's attorney or authorized  
28 representative, or pursuant to a written authorization, a provider,  
29 except as provided in section 4-194, shall furnish to the person making  
30 such request a copy of the patient's health record, including but not  
31 limited to, bills, x-rays and copies of laboratory reports, contact lens  
32 specifications based on examinations and final contact lens fittings  
33 given within the preceding [three months] three-month period or such  
34 longer period of time as determined by the provider but no longer  
35 than [six months] a six-month period, records of prescriptions and  
36 other technical information used in assessing the patient's health  
37 condition.

38 (e) No provider shall refuse to return to a patient original records or  
39 copies of records that the patient has brought to the provider from  
40 another provider. When returning records to a patient, a provider may  
41 retain copies of such records for the provider's file, provided such  
42 provider does not charge the patient for the costs incurred in copying  
43 such records.

44 (f) No provider shall charge more than (1) sixty-five cents per page,  
45 [including any research fees, handling fees or related costs, and the  
46 cost of first class postage, if applicable, for furnishing a health record  
47 pursuant to this subsection, except such provider may charge a

48 patient] and (2) twenty dollars for research and handling fees for  
49 furnishing a health record, or any part thereof, pursuant to this  
50 subsection, except no research and handling fee shall be charged for  
51 furnishing a copy of a health record to a patient. Except as otherwise  
52 provided in this section, a provider may charge a patient or other  
53 person (A) for the cost of first class postage for furnishing a copy of a  
54 health record pursuant to this section, (B) the amount necessary to  
55 cover the cost of materials for furnishing a copy of an x-ray, [provided  
56 no such] and (C) a certification fee of not more than ten dollars, if  
57 certification of the health record is requested. No charge shall be made  
58 for furnishing a copy of a health record, or part thereof, to a patient, a  
59 patient's attorney or authorized representative if the health record [or  
60 part thereof] is necessary for the purpose of supporting a claim or  
61 appeal under any provision of the Social Security Act and the request  
62 is accompanied by documentation of the claim or appeal. A person  
63 who is the recipient of a health record furnished by a provider  
64 pursuant to a subpoena or court order, shall be responsible for  
65 payment to such provider in accordance with the provisions of this  
66 subsection, except as otherwise provided by court order.

67 (g) A provider shall furnish a health record requested pursuant to  
68 this section [within] not later than thirty days [of] after the request.

69 (h) No health care provider, who has purchased or assumed the  
70 practice of a provider who is retiring or deceased, may refuse to return  
71 original records or copied records to a patient who decides not to seek  
72 care from the successor provider. When returning records to a patient  
73 who has decided not to seek care from a successor provider, such  
74 successor provider may not charge a patient for costs incurred in  
75 copying the records of the retired or deceased provider.

76 [(e)] (i) If a provider reasonably determines that the information is  
77 detrimental to the physical or mental health of the patient, or is likely  
78 to cause the patient to harm himself, herself or another, the provider  
79 may withhold the information from the patient. The information may  
80 be supplied to an appropriate third party or to another provider who

81 may release the information to the patient. If disclosure of information  
82 is refused by a provider under this subsection, any person aggrieved  
83 thereby may, [within] not later than thirty days [of] after such refusal,  
84 petition the superior court for the judicial district in which such person  
85 resides for an order requiring the provider to disclose the information.  
86 Such a proceeding shall be privileged with respect to assignment for  
87 trial. The court, after hearing and an in camera review of the  
88 information in question, shall issue the order requested unless it  
89 determines that such disclosure would be detrimental to the physical  
90 or mental health of the person or is likely to cause the person to harm  
91 himself, herself or another.

92 [(f)] (j) The provisions of this section shall not apply to any  
93 information relative to any psychiatric or psychological [problems or  
94 conditions] illness or condition.

95 [(g)] (k) In the event that a provider abandons his or her practice,  
96 the Commissioner of Public Health may appoint a licensed health care  
97 provider to be the keeper of the records. [, who] The keeper of the  
98 records shall be responsible for disbursing the original health records  
99 to the provider's patients, upon the request of any such patient.

100 [(h)] (l) The Commissioner of Public Health shall adopt regulations,  
101 in accordance with the provisions of chapter 54, to carry out the  
102 provisions of this section.

103 Sec. 2. Section 19a-490b of the general statutes is repealed and the  
104 following is substituted in lieu thereof (*Effective October 1, 2015*):

105 (a) Upon the written request of a patient or the patient's attorney or  
106 authorized representative, or pursuant to a written authorization, an  
107 institution licensed pursuant to this chapter shall furnish to the person  
108 making such request a copy of the patient's health record, including  
109 but not limited to, copies of bills, laboratory reports, prescriptions and  
110 other technical information used in assessing the patient's health  
111 condition. In addition, an institution shall provide the patient or the  
112 patient's designated health care provider with a reasonable

113 opportunity to examine retained tissue slides and retained pathology  
114 tissue blocks. Upon the written request of the patient, the patient's  
115 attorney or the patient's designated health care provider, an institution  
116 shall send the original retained tissue slide or original retained tissue  
117 block directly to the patient's designated licensed institution,  
118 laboratory or physician. If the original slide or block is not available or  
119 if a new section cut of the original slide or block is a fair representation  
120 of the original slide or block, then the institution may send the new  
121 section cut, [which] that is clearly labeled as a new section cut, to the  
122 patient's designated health care provider. Any patient or [the] a  
123 patient's attorney or authorized representative who is provided with  
124 an original retained slide, tissue block or a new section under the  
125 provisions of this subsection shall be solely responsible for  
126 safeguarding and returning the slide, block or new section to the  
127 institution. Any institution [or laboratory] that has released an original  
128 slide, an original tissue block or new section pursuant to the provisions  
129 of this subsection shall not be subject to any liability arising out of  
130 releasing or not retaining the slide, block or new section and no cause  
131 of action for damages shall arise against any such institution for  
132 releasing or not retaining the slide, block or new section. [No such  
133 institution shall charge more than sixty-five cents per page, including  
134 any research fees, clerical fees, handling fees or related costs, and the  
135 cost of first class postage, if applicable, for furnishing or providing  
136 access to a health record pursuant to this subsection, except such an  
137 institution may charge the amount necessary to cover its cost of  
138 materials for furnishing a copy of an x-ray or for furnishing an original  
139 retained slide, an original tissue block or a new section cut from a  
140 retained pathology tissue block.] An institution shall furnish a copy of  
141 a patient's health record to the patient or the patient's attorney or  
142 authorized representative making a written request for such health  
143 record not later than thirty days after the date of the request, except  
144 when such request is made less than thirty days after the date of the  
145 patient's discharge from the institution, in which case the institution  
146 shall furnish the requested health record upon its completion. For  
147 purposes of this subsection, "health care provider" means an institution

148 or laboratory licensed under this chapter or licensed in the state where  
149 located or a physician licensed under chapter 370 or licensed in the  
150 state where located.

151 (b) No institution shall charge more than (1) sixty-five cents per  
152 page, and (2) twenty dollars for research and handling fees for  
153 furnishing or providing access to a patient's health record, or part  
154 thereof, except no research and handling fee shall be charged for  
155 furnishing a copy of a health record to a patient. Except as otherwise  
156 provided in this section, an institution may charge a patient or other  
157 person (A) for the cost of first class postage for furnishing a copy of a  
158 health record pursuant to this section, (B) the amount necessary to  
159 cover the cost of materials for furnishing a copy of an x-ray or for  
160 furnishing an original retained slide, an original tissue block or a new  
161 section cut from a retained pathology tissue block, and (C) a  
162 certification fee of not more than ten dollars, if certification of the  
163 health record is requested. A person who is the recipient of a health  
164 record furnished by an institution pursuant to a subpoena or court  
165 order shall be responsible for payment to the institution furnishing  
166 such health record in accordance with the provisions of this  
167 subsection, except as otherwise provided by court order.

168 [(b)] (c) No institution [licensed pursuant to this chapter] shall  
169 charge for furnishing a health record, or part thereof, to a patient, [his]  
170 the patient's attorney or [conservator] authorized representative if the  
171 health record [or part thereof] is necessary for the purpose of  
172 supporting a claim or appeal under any provision of the Social  
173 Security Act and the request for the health records is accompanied by  
174 documentation of the claim or appeal. [An institution shall furnish the  
175 requested record within thirty days of the request, unless the request  
176 was received in less than thirty days subsequent to the date the patient  
177 was discharged, in which case the institution shall furnish the  
178 requested record upon its completion.]

179 [(c) Each] (d) An institution [licensed pursuant to this chapter] shall  
180 maintain information regarding each patient's status as a veteran, as

181 defined in subsection (a) of section 27-103. Said information shall be  
182 made available, upon request, to any duly authorized representative of  
183 the Department of Veterans' Affairs.

184 [(d)] (e) No institution may deny a person the records available  
185 under subsection (a) of this section because of the person's inability to  
186 pay the required fees. An affidavit from such person attesting to an  
187 inability to pay such fees shall be presumptive evidence thereof.

188 [(e) Each institution licensed pursuant to this chapter] (f) An  
189 institution that ceases to operate shall, at the time it relinquishes its  
190 license to the department, provide to the department a certified  
191 document specifying: (1) The location at which patient health records  
192 will be stored; (2) the procedure that has been established for patients,  
193 former patients or their authorized representatives to secure access to  
194 such health records; (3) provisions for storage, should the storage  
195 location cease to operate or change ownership; and (4) that the  
196 department is authorized to enforce the certified document should the  
197 storage location cease to operate or change ownership. An institution  
198 that fails to comply with the terms of a certified document provided to  
199 the department in accordance with this subsection shall be assessed a  
200 civil penalty not to exceed one hundred dollars per day for each day of  
201 noncompliance with the terms of the certified agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	20-7c
Sec. 2	October 1, 2015	19a-490b

**PH**            *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill concerns transactions between private entities and individuals and results in no fiscal impact to the state or municipalities.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****SB 73*****AN ACT CONCERNING MEDICAL RECORDS.*****SUMMARY:**

This bill expands the fees health care providers and institutions (i.e., hospitals and other facilities) may charge for supplying a patient's health record. Current law allows providers and institutions to charge up to 65 cents per page, including any applicable research or handling fees, related costs, and first class postage for this purpose.

The bill instead allows them to continue to charge 65 cents per page and:

1. a \$20 research and handling fee, except when providing the copy of a health record to a patient (presumably, the fee applies to third-party requestors);
2. the cost of first class postage; and
3. a certification fee of up to \$10, if certification is requested.

Existing law also allows providers and institutions to charge the amount necessary to cover the cost of material for (1) providing a copy of an x-ray and (2) for institutions, furnishing an original retained slide, an original tissue block, or a new section cut from a retained pathology tissue block.

Under the bill, if a provider or institution supplies a patient's health record pursuant to a subpoena or court order, the recipient of the record must pay the above charges, unless the court provides otherwise. (The federal HIPAA Privacy Rule limits the circumstances under which they may supply health records pursuant to a subpoena.)

As under existing law, a provider or institution cannot impose the above charges if the health record is necessary for a documented Social Security claim or appeal. Additionally, institutions cannot deny a health record request because of a patient's inability to pay the required fees if the patient provides an affidavit attesting so.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2015

## **BACKGROUND**

### ***Patient Access to Medical Records***

By law, health care providers and institutions must supply a copy of a patient's health record upon the written request of the patient or his or her attorney or authorized representative. They must do so within 30 days of the request, unless the request was received less than 30 days from a patient's discharge from an institution. In this case, the institution must provide the record when it is completed (CGS §§ 20-7c(d) & 19a-490b(b)).

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 27      Nay 0      (03/23/2015)