SENATE BILL NO. 2240

AN ACT PROVIDING FOR ACCESS TO MEDICAL RECORDS BY A PATIENT OR THE PATIENT'S REPRESENTATIVE UPON WRITTEN REQUEST; TO PROVIDE A FEE SCHEDULE FOR HEALTH PROVIDERS FOR PROVIDING COPIES OF MEDICAL RECORDS; TO REQUIRE HEALTH-CARE PROVIDERS TO PROVIDE MEDICAL RECORDS AT NO CHARGE TO CLAIMANTS FOR SOCIAL SECURITY DISABILITY OR SSI BENEFITS; TO AMEND SECTION 41-9-65, MISSISSIPPI CODE 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) For purposes of this section:

(a) "Health-care provider" means a licensed physician, psychologist, osteopath, dentist, nurse, nurse practitioner, physician assistant, pharmacist, podiatrist, optometrist, chiropractor, institution for the aged or infirm, hospital and licensed pharmacy.

(b) "Medical record" means, without restriction, any data in any form that pertains to a patient's medical history, diagnosis, prognosis, medical condition, medical treatment ordered and given, x-rays, and other written or graphic data that is generated and maintained by a health-care provider in the process of the patient's health care treatment.

(c) "Medical records company" means a person who stores, locates or copies medical records for a health-care provider, or is compensated for doing so by a health-care provider, and charges a fee for providing medical records to a patient or patient's representative.

(d) "Patient" means either an individual who received health care treatment from a health-care provider, or the individual's legal guardian.
(e) "Patient's representative" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical records, except that if the patient is deceased, "patient's representative" means the executor or administrator of the patient's estate or the person responsible for the patient's estate if it is not to be probated. "Patients representative" does not include an insurer authorized under Title 83 of the Mississippi Code of 1972, to do the business of health, sickness and accident insurance in this state.

(2) A patient or patient's representative who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health-care provider a written request signed by the patient dated not more than sixty (60) days before the date on which it was submitted. The patient or patient's representative who wishes to obtain a copy of the record shall indicate in the request whether the copy is to be sent to the patient's residence, patient's representative, patient's physician or other health-care provider, or held for the patient at the office of the health-care provider. Within a reasonable time after receiving a request that meets the requirements of this section and includes sufficient information to identify the record requested, a health-care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with subsection (5) of this section; provided, however, that if a physician who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health-care provider shall provide the record only to a physician designated by the patient. The health-care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.
(3) If a health-care provider fails to furnish a medical record as required by subsection (2) of this section, the patient or patient's representative who requested the record may bring a civil action to enforce the patient's right of access to the record.

(4) Patient's medical records are and shall remain the property of the applicable health-care provider, subject to reasonable access to the information contained therein as provided in this section. Nothing in this section shall be construed to deny access to medical records by the Attorney General, the Mississippi Workers Compensation Commission, the applicable licensing agency of the health-care provider, or his or its agents and investigators in the discharge of their official duties.

Except as otherwise provided by law, medical records shall not constitute public records and nothing in this section shall be deemed to impair or supersede any privilege of confidentiality conferred by law or by the Mississippi Rules of Evidence on patients, their personal representatives or heirs.

(5) A health-care provider or medical records company that receives a request for a copy of a patient's medical record may charge not more than the amounts set forth in this section. Total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) An initial fee of Fifteen Dollars ($15.00), which shall compensate for the records search;

(b) With respect to data recorded on paper the following amounts:

(i) One Dollar ($1.00) per page for the first ten (10) pages;

(ii) Fifty Cents ($.50) per page for pages eleven (11) through fifty (50);

(iii) Twenty Cents ($.20) per page for pages fifty-one (51) and higher;
(c) With respect to data recorded other than on paper, 
the actual cost of making the copy; and 
(d) The actual cost of any related postage incurred by 
the health-care provider or medical records company. 
(6) A health-care provider or medical records company shall 
provide one (1) copy without charge to the following: (a) the 
Mississippi Workers Compensation Commission, for purposes of 
providing evidence on a claim by or on behalf of the patient; (b) 
the Mississippi Employment Security Commission or the Mississippi 
Department of Human Services, for the purposes of providing 
evidence of a claim by or on behalf of the patient; or (c) a 
patient or patient's representative if the medical record is 
necessary to support a claim under Title II or Title XVI of the 
federal Social Security Act, as amended, and the request is 
accompanied by documentation that a claim has been filed. 
(7) A health-care provider or medical records company may 
enter into a contract with a patient, a patient's representative 
or an insurer for the copying of medical records at a fee other 
than as provided in subsection (5). 
(8) This section does not preclude the distribution of 
copies of medical records at any cost or fee to insurers 
authorized under Title 83 to do the business of health, sickness 
and accident insurance in this state. 

SECTION 2. Section 41-9-65, Mississippi Code of 1972, is 
amended as follows: 
41-9-65. Hospital records are and shall remain the property 
of the various hospitals, subject however to reasonable access to 
the information contained therein upon good cause shown by the 
patient, his personal representatives or heirs, his attending 
medical personnel and his duly authorized nominees, and upon 
payment of any reasonable charges for such service, as provided in 
Section 1 of Senate Bill No. 2240, 2003 Regular Session. Nothing 
in this section shall be construed to deny access to hospital
records by representatives and officials of the State Department
of Health, in the discharge of their official duties, pursuant to
Sections 41-3-15, 41-23-1 and 41-23-2.

SECTION 3. This act shall take effect and be in force from
and after July 1, 2003.