

By: Representative Moak

To: Public Health and Human Services

HOUSE BILL NO. 46

1 AN ACT TO PROVIDE FOR THE RELEASE OF MEDICAL RECORDS AND TO
2 PROVIDE FOR THE PAYMENT OF THE COSTS THEREOF; TO AMEND SECTION
3 41-9-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS
4 OF THIS ACT; TO BRING FORWARD SECTIONS 41-9-103 AND 41-9-117,
5 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE USE OF MEDICAL
6 RECORDS IN JUDICIAL PROCEEDINGS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Any patient of a physician, hospital or any other
9 health care provider who signs a medical information release
10 authorization shall have such records released to authorized
11 recipients as provided by this section. No physician, hospital or
12 any other health care provider may charge more than the actual
13 cost of reproducing such information and the cost of forwarding
14 the information to the recipient. A physician, hospital or any
15 other health care provider may charge reasonable fees for
16 additional duties such as interpreting medical records, providing
17 a synopsis of medical records or any other service not related to
18 reproduction and forwarding. Any person who violates the
19 provisions of this section, upon conviction, shall be fined One
20 Thousand Dollars (\$1,000.00).

21 **SECTION 2.** Section 41-9-77, Mississippi Code of 1972, is
22 amended as follows:

23 41-9-77. Any hospital may, in its discretion, cause any
24 hospital record or part thereof to be reproduced on film or in any
25 other acceptable form of medium, as determined by the licensing
26 agency, which shall include, but not be limited to, microfilming,
27 photographing, photostating or storage on optical disks. After
28 the records have been reproduced, the hospital may retire the
29 original documents so reproduced. Any such reproduction or copy

30 of an original hospital record or part thereof shall be deemed to
31 be the original hospital record or part thereof for all purposes,
32 shall be subject to retention and retirement as provided in
33 Sections 41-9-69 through 41-9-73, and shall be admissible as
34 evidence in all courts or administrative agencies to the same
35 extent as the original would be or would have been admissible. A
36 facsimile, exemplification or copy of such reproduction or copy
37 shall be deemed to be a transcript, exemplification or copy of the
38 original hospital record or part thereof. However, no state
39 hospital shall undertake such reproduction or destruction of
40 records except as provided in Section 25-59-1 et seq. No other
41 public hospital shall undertake such reproduction unless the
42 expense thereof has been provided for in the annual budget, or an
43 amendment thereof, approved for such public hospital. Any records
44 reproduced upon release and authorization by a patient shall be
45 paid for as provided in Section 1 of this act.

46 **SECTION 3.** Section 41-9-103, Mississippi Code of 1972, is
47 brought forward as follows:

48 41-9-103. Except as hereinafter provided, when a subpoena
49 duces tecum is served upon a custodian of records of any hospital
50 duly licensed under the laws of this state in an action or
51 proceeding in which the hospital is neither a party nor the place
52 where any cause of action is alleged to have arisen and such
53 subpoena requires the production of all or any part of the records
54 of the hospital relating to the care or treatment of a patient in
55 such hospital, it shall be sufficient compliance therewith if the
56 custodian or other officer of the hospital shall, on or before the
57 time specified in the subpoena duces tecum, file with the court
58 clerk or the officer, body or tribunal conducting the hearing, a
59 true and correct copy (which may be a copy reproduced on film or
60 other reproducing material by microfilming, photographing,
61 photostating or other approximate process, or a facsimile,

62 exemplification or copy of such reproduction or copy) of all
63 records described in such subpoena.

64 **SECTION 4.** Section 41-9-117, Mississippi Code of 1972, is
65 brought forward as follows:

66 41-9-117. In view of the property right of the hospital in
67 its records, original records may be withdrawn after introduction
68 into evidence and copies substituted, unless otherwise directed
69 for good cause by the court, judge, officer, body, or tribunal
70 conducting the hearing. The custodian may prepare copies of
71 original records in advance of testifying for the purpose of
72 making substitution of the original record, and the reasonable
73 charges for making such copies shall be taxed as costs of court.
74 If copies are not prepared in advance, they can be made and
75 substituted at any time after introduction of the original record,
76 and the reasonable charges for making such copies shall be taxed
77 as costs of court.

78 **SECTION 5.** This act shall take effect and be in force from
79 and after July 1, 2004.