

By: Senator(s) Burton

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2121

1 AN ACT PROVIDING FOR ACCESS TO MEDICAL RECORDS BY A PATIENT
2 OR THE PATIENT'S REPRESENTATIVE UPON WRITTEN REQUEST; TO PROVIDE A
3 FEE SCHEDULE FOR HEALTH PROVIDERS FOR PROVIDING COPIES OF MEDICAL
4 RECORDS; TO REQUIRE HEALTH CARE PROVIDERS TO PROVIDE MEDICAL
5 RECORDS AT NO CHARGE TO CLAIMANTS FOR SOCIAL SECURITY DISABILITY
6 OR SSI BENEFITS; TO AMEND SECTION 41-9-65, MISSISSIPPI CODE OF
7 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

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

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

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

26 (d) "Patient" means either an individual who received
27 health care treatment from a health care provider, or the
28 individual's legal guardian.



29 (e) "Patient's representative" means a person to whom a
30 patient has given written authorization to act on the patient's
31 behalf regarding the patient's medical records, except that if the
32 patient is deceased, "patient's representative" means the executor
33 or administrator of the patient's estate or the person responsible
34 for the patient's estate if it is not to be probated. "Patients
35 representative" does not include an insurer authorized under Title
36 83 of the Mississippi Code of 1972, to do the business of health,
37 sickness and accident insurance in this state.

38 (2) A patient or patient's representative who wishes to
39 examine or obtain a copy of part or all of a medical record shall
40 submit to the health care provider a written request signed by the
41 patient dated not more than sixty (60) days before the date on
42 which it was submitted. The patient or patient's representative
43 who wishes to obtain a copy of the record shall indicate in the
44 request whether the copy is to be sent to the patient's residence,
45 patient's representative, patient's physician or other health care
46 provider, or held for the patient at the office of the health care
47 provider. Within a reasonable time after receiving a request that
48 meets the requirements of this section and includes sufficient
49 information to identify the record requested, a health care
50 provider that has the patient's medical records shall permit the
51 patient to examine the record during regular business hours
52 without charge or, on request, shall provide a copy of the record
53 in accordance with subsection (5) of this section; provided,
54 however, that if a physician who has treated the patient
55 determines for clearly stated treatment reasons that disclosure of
56 the requested record is likely to have an adverse effect on the
57 patient, the health care provider shall provide the record only to
58 a physician designated by the patient. The health care provider
59 shall take reasonable steps to establish the identity of the
60 person making the request to examine or obtain a copy of the
61 patient's record.



62 (3) If a health care provider fails to furnish a medical
63 record as required by subsection (2) of this section, the patient
64 or patient's representative who requested the record may bring a
65 civil action to enforce the patient's right of access to the
66 record.

67 (4) Patient's medical records are and shall remain the
68 property of the applicable health care provider, subject to
69 reasonable access to the information contained therein as provided
70 in this section. Nothing in this section shall be construed to
71 deny access to medical records by the Attorney General, the
72 Mississippi Workers' Compensation Commission, the applicable
73 licensing agency of the health care provider, or his or its agents
74 and investigators in the discharge of their official duties.
75 Except as otherwise provided by law, medical records shall not
76 constitute public records and nothing in this section shall be
77 deemed to impair or supercede any privilege of confidentiality
78 conferred by law or by the Mississippi Rules of Evidence on
79 patients, their personal representatives or heirs.

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

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

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

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

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

93 (iii) Twenty Cents (\$.20) per page for pages
94 fifty-one (51) and higher;



95 (c) With respect to data recorded other than on paper,
96 the actual cost of making the copy; and

97 (d) The actual cost of any related postage incurred by
98 the health care provider or medical records company.

99 (6) A health care provider or medical records company shall
100 provide one (1) copy without charge to the following: (a) the
101 Mississippi Workers' Compensation Commission, for purposes of
102 providing evidence on a claim by or on behalf of the patient; (b)
103 the Mississippi Employment Security Commission or the Mississippi
104 Department of Human Services, for the purposes of providing
105 evidence of a claim by or on behalf of the patient; or (c) a
106 patient or patient's representative if the medical record is
107 necessary to support a claim under Title II or Title XVI of the
108 federal Social Security Act, as amended, and the request is
109 accompanied by documentation that a claim has been filed.

110 (7) A health care provider or medical records company may
111 enter into a contract with a patient, a patient's representative
112 or an insurer for the copying of medical records at a fee other
113 than as provided in subsection (5).

114 (8) This section does not preclude the distribution of
115 copies of medical records at any cost or fee to insurers
116 authorized under Title 83 to do the business of health, sickness
117 and accident insurance in this state.

118 **SECTION 2.** Section 41-9-65, Mississippi Code of 1972, is
119 amended as follows:

120 41-9-65. Hospital records are and shall remain the property
121 of the various hospitals, subject however to reasonable access to
122 the information contained therein upon good cause shown by the
123 patient, his personal representatives or heirs, his attending
124 medical personnel and his duly authorized nominees, and upon
125 payment of any reasonable charges for such service, as provided in
126 Section 1 of Senate Bill No. 2121, 2004 Regular Session. Nothing
127 in this section shall be construed to deny access to hospital



128 records by representatives and officials of the State Department
129 of Health, in the discharge of their official duties, pursuant to
130 Sections 41-3-15, 41-23-1 and 41-23-2.

131 **SECTION 3.** This act shall take effect and be in force from
132 and after July 1, 2004.

