

**26:2H-5n and 45:9-22.27**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2022                    **CHAPTER:** 114

**NJSA:** 26:2H-5n and 45:9-22.27  
(Limits fees charged for copies of medical and billing records.)

**BILL NO:** S2253                  (Substituted for A3656 (1R))

**SPONSOR(S)** Nicholas P. Scutari and others

**DATE INTRODUCED:** 3/8/2022

**COMMITTEE:**                    **ASSEMBLY:** ---

**SENATE:** Health, Human Services and Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**   **ASSEMBLY:** 6/29/2022

**SENATE:** 6/29/2022

**DATE OF APPROVAL:** 9/22/2022

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL (First Reprint enacted)**                    Yes

**S2253**

**INTRODUCED BILL:** (Includes sponsor(s) statement)            Yes

**COMMITTEE STATEMENT:**   **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                    Yes

**LEGISLATIVE FISCAL ESTIMATE:**                    No

**A3656 (1R)**

**INTRODUCED BILL:** (Includes sponsor(s) statement)            Yes

**COMMITTEE STATEMENT:**   **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                    Yes

**LEGISLATIVE FISCAL ESTIMATE:**                    No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

end

P.L. 2022, CHAPTER 114, *approved September 22, 2022*  
Senate, No. 2253 (*First Reprint*)

1 AN ACT concerning patient records and amending P.L.2019, c.217.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State  
4 of New Jersey:

5

6 1. Section 1 of P.L.2019, c.217 (C.26:2H-5n) is amended to  
7 read as follows:

8 1. a. Except as provided in subsection d. of this section, if a  
9 patient of a general, special, or psychiatric hospital licensed  
10 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **【**or of a State-  
11 licensed health care professional**】**, the patient's legally authorized  
12 representative, or an authorized third party requests, in writing, a  
13 copy of <sup>1</sup>**【**the patient's medical**】** individual admission<sup>1</sup> records, the  
14 hospital **【**or the health care professional**】** shall provide a legible  
15 paper or electronic reproduction of the requested records within the  
16 dates requested to the patient, the patient's legally authorized  
17 representative, or the authorized third party within 30 days of the  
18 request, in accordance with the following:

19 (1) (a) For a request by a patient or the patient's legally  
20 authorized representative for a medical record, whether such record  
21 is stored electronically, on microfilm or microfiche, or on paper, the  
22 fee for reproducing the record shall not exceed \$1 per page or \$50  
23 per individual admission record, whichever is less. The fee for  
24 reproducing a medical record shall not exceed \$50 per individual  
25 admission or patient record, <sup>1</sup>**【**inclusive**】** exclusive<sup>1</sup> of any  
26 additional fees specified in paragraph (3) of this subsection;

27 (b) If a patient requests a copy of the patient's own medical  
28 records in accordance with the federal "Health Insurance Portability  
29 and Accountability Act of 1996," Pub.L.104-191, the requirements  
30 provided under 45 C.F.R. 164.524(b) with respect to the time  
31 required to respond to such requests and the applicable fees shall  
32 apply; **【**and**】**

33 (c) A hospital **【**or a health care professional**】** shall not charge  
34 any fee to provide an electronic or paper reproduction of a billing  
35 record requested by a patient, or a patient's legally authorized  
36 representative**【**, or an authorized third party**】**;

37 (d) For a request by an authorized third party, the fee for  
38 reproducing medical and billing records that are not stored on  
39 microfilm or microfiche shall be no more than \$1 per page, and the

**EXPLANATION** – Matter enclosed in bold-faced brackets **【**thus**】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate floor amendments adopted June 16, 2022.

1 fee for reproducing records stored on microfilm or microfiche shall  
2 be \$1.50 per image; and

3 (e) A fee for the reproduction of x-rays or any other material that  
4 cannot be routinely copied or duplicated on a commercial  
5 photocopy machine, which shall be no more than \$15 per printed  
6 image or \$30 per compact disc (CD) or digital video disc (DVD),  
7 plus an administrative fee of \$10.

8 (2) Delivery of an electronic reproduction of a patient's medical  
9 or billing record shall be required only if:

10 (a) the entire request can be reproduced from an electronic  
11 health record system;

12 (b) the record is specifically requested to be delivered in  
13 electronic format; and

14 (c) the record can be delivered electronically.

15 (3) In addition to per-page fees, a hospital **[**or a health care  
16 professional**]** shall apply the following charges <sup>1</sup>**[**, provided that the  
17 total fees charged per individual admission record or patient record  
18 do not exceed \$50<sup>1</sup> for patients <sup>1</sup>**[and]** <sup>1</sup> patients' legally  
19 authorized representatives <sup>1</sup>, and authorized third parties <sup>1</sup> :

20 (a) a search fee of no more than **[\$10]** \$20 per request;  
21 provided that no search fee shall be charged to a patient who is  
22 requesting the patient's own record. If a search fee may be charged  
23 under this subparagraph, the fee shall apply even if no medical  
24 records are found as a result of the search;

25 (b) **[**a fee for the reproduction of x-rays or any other material  
26 that cannot be routinely copied or duplicated on a commercial  
27 photocopy machine, which shall be no more than \$15 per printed  
28 image or \$30 per compact disc (CD) or digital video disc (DVD),  
29 plus an administrative fee of \$10;**]** (deleted by amendment, P.L. ,  
30 c. ) (pending before the Legislature as this bill)

31 (c) a fee for certification of a copy of a medical record of no  
32 more than \$10 per certification; and

33 (d) costs for delivering records in any medium, plus sales tax, if  
34 applicable.

35 (4) The fees established in this subsection shall be charged for  
36 electronic reproductions as well as paper copies of medical records.

37 (5) The hospital **[**or the health care professional**]** shall establish  
38 a policy assuring access to copies of medical records for patients  
39 who do not have the ability to pay for the copies.

40 (6) The hospital **[**or the health care professional**]** shall establish  
41 a fee policy providing an incentive for the use of abstracts or  
42 summaries of medical records; however, a patient **[,** and a patient's  
43 legally authorized representative **[,** or an authorized third party**]**  
44 shall have the right to receive a full or certified copy of the medical  
45 record.

1 (7) Subject to the requirements of paragraph (2) of this  
2 subsection, medical and billing records shall be delivered in the  
3 manner specified by the requestor, which may include, but shall not  
4 be limited to, mailing the record to any address or faxing the record  
5 to any number specified by the requestor, including the requestor's  
6 attorney. Subject to the requirements of federal law, the method of  
7 delivery specified by a requestor shall not affect the fees that would  
8 ordinarily apply to the request under paragraphs (1) and (3) of this  
9 subsection, subject to any policies established pursuant to  
10 paragraphs (5) and (6) of this subsection and subject to the  
11 provisions of subsections c. and d. of this section.

12 b. Access to a copy of a patient's medical record shall be  
13 limited only to the extent necessary to protect the patient. The  
14 patient's attending physician shall provide a verbal explanation for  
15 any denial of access to the patient, legally authorized representative,  
16 or authorized third party, and shall document the denial and  
17 explanation in the medical record. In the event that direct access to  
18 a copy by the patient is medically contraindicated, as documented  
19 by a physician in the patient's medical record, the hospital **【**or the  
20 health care professional**】** shall not limit access to the record to a  
21 legally authorized representative of the patient, an authorized third  
22 party, or the patient's attending physician.

23 c. A hospital **【**or a health care professional**】** shall not assess  
24 any fees or charges for a copy of <sup>1</sup>**【**a patient's medical**】** individual  
25 admission<sup>1</sup> records as provided herein other than those provided for  
26 in this section.

27 d. The fees authorized by this section shall not be imposed on:

28 (1) A patient who does not have the ability to pay and who  
29 presents either: (a) a statement certifying to annual income at or  
30 below 250 percent of the federal poverty level; or (b) proof of  
31 eligibility for, or enrollment in, a State or federal assistance  
32 program including, but not limited to: the federal Supplemental  
33 Nutrition Assistance Program established pursuant to the "Food and  
34 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);  
35 the federal Supplemental Security Income program established  
36 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-  
37 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program  
38 established pursuant to the "Richard B. Russell National School  
39 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal  
40 special supplemental food program for women, infants, and children  
41 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State  
42 Medicaid program established pursuant to the "New Jersey Medical  
43 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et  
44 seq.); the NJ FamilyCare Program established pursuant to the  
45 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et  
46 al.); the Work First New Jersey program established pursuant to the  
47 "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.);

1 the New Jersey Supplementary Food Stamp Program established  
2 pursuant to the "New Jersey Supplementary Food Stamp Program  
3 Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program;  
4 or any other State or federal assistance program now or hereafter  
5 established by law;

6 (2) A not-for-profit corporation indicating in writing that it is  
7 representing a patient;

8 (3) A health care practitioner;

9 (4) An attorney representing a patient on a pro bono basis,  
10 provided that the attorney submits with the request a certification  
11 that the attorney is representing the patient on a pro bono basis. An  
12 attorney representing a patient on a contingency fee basis shall be  
13 assessed the ordinary fees to obtain a copy of <sup>1</sup>【the patient's  
14 medical】 individual admission<sup>1</sup> records; or

15 (5) A patient or an attorney representing a patient who has a  
16 pending application for, or is currently receiving, federal Social  
17 Security disability benefits provided under Title II or Title XVI of  
18 the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et  
19 al.).

20 e. As used in this section:

21 "Authorized third party" means a third party, who is not a legally  
22 authorized representative of the patient, with a valid authorization,  
23 subpoena, legal process, or court order granting access to a patient's  
24 medical or billing records.

25 【"Health care professional" means an individual who, acting  
26 within the scope of the individual's licensure or certification,  
27 provides health care services, and includes, but is not limited to, a  
28 physician, dentist, nurse, pharmacist, or other health care  
29 professional whose professional practice is regulated pursuant to  
30 Title 45 of the Revised Statutes.】

31 "Legally authorized representative" means: the patient's spouse,  
32 domestic partner, or civil union partner; the patient's immediate  
33 next of kin; the patient's legal guardian; the patient's attorney; the  
34 patient's <sup>1</sup>【third party】<sup>1</sup> automobile insurer; or the patient's worker's  
35 compensation carrier, if the carrier is authorized to access to the  
36 patient's treatment or billing records by contract or law, provided  
37 that access by a worker's compensation carrier shall be limited only  
38 to that portion of the treatment or billing record that is relevant to  
39 the specific work-related incident at issue in the worker's  
40 compensation claim.

41 (cf: P.L.2021, c.427, s.1)

42  
43 2. Section 2 of P.L.2019, c.217 (C.45:9-22.27) is amended to  
44 read as follows:

45 2. A person licensed to practice a health care profession  
46 regulated by the State Board of Medical Examiners shall provide  
47 copies of professional treatment and billing records, including

1 treatment records from other health care providers that are part of a  
2 patient's record, to a patient, the patient's legally authorized  
3 representative, or an authorized third party in accordance with the  
4 following:

5 a. No later than 30 days after receipt of a request from a  
6 patient, a patient's legally authorized representative, or an  
7 authorized third party, the licensee shall provide an electronic copy  
8 or photocopy of the professional treatment records, billing records,  
9 or both, as requested. The record shall include all pertinent,  
10 objective data, including test results and x-ray results, as applicable,  
11 and subjective information.

12 b. Unless otherwise required by law, a licensee may elect to  
13 provide a summary of the record in lieu of providing the electronic  
14 copy or photocopy required pursuant to subsection a. of this section,  
15 provided that the summary adequately reflects the patient's history  
16 and treatment. A licensee may charge a reasonable fee for the  
17 preparation of a summary that has been provided in lieu of the  
18 actual record, which shall not exceed the cost that would be charged  
19 for the actual record pursuant to subsection d. of this section;  
20 however, a patient, a patient's legally authorized representative, or  
21 an authorized third party shall have the right to receive a full or  
22 certified copy of the patient's treatment record. The fee for  
23 certification shall be no more than \$10 per certification.

24 c. If, in the exercise of the licensee's professional judgment, a  
25 licensee has reason to believe that the patient's mental or physical  
26 condition will be adversely affected upon being made aware of the  
27 subjective information contained in the professional treatment  
28 record or a summary of the record, the licensee may refuse to  
29 provide the record or summary to the patient. The licensee shall  
30 include in the record a notice setting forth the reasons for the  
31 original refusal. The licensee shall, however, provide a copy of the  
32 record or summary upon request to:

- 33 (1) the patient's attorney;  
34 (2) another licensed health care professional;  
35 (3) the patient's health insurance carrier through an employee  
36 thereof;  
37 (4) a governmental reimbursement program or an agent thereof,  
38 with responsibility to review utilization or quality of care; or  
39 (5) an authorized third party.

40 d. A licensee may require a record request to be in writing and,  
41 except as provided in subsection j. of this section, may charge a fee  
42 for:

- 43 (1) (a) A request by a patient or a patient's legally authorized  
44 representative for the reproduction of patient treatment and billing  
45 records, which shall be no more than \$1 per page or ~~[\$200]~~ \$50 for  
46 the entire record, whichever is less, ~~except that, for records stored~~  
47 on microfilm or microfiche, the reproduction fee shall be no more

1 than \$1.50 per image or \$200 for the entire record, whichever is  
2 less] and regardless of whether such record is stored electronically,  
3 on microfilm or microfiche, or on paper; and

4 (b) A request by an authorized third party for the reproduction  
5 of patient treatment and billing records, which shall be no more  
6 than \$1 per page or, in the case of records stored on microfilm or  
7 microfiche, no more than \$1.50 per image;

8 (2) The reproduction of x-rays or any other material within a  
9 patient treatment record that cannot be routinely copied or  
10 duplicated on a commercial photocopy machine, which shall be no  
11 more than \$15 per printed image or \$30 per compact disc (CD) or  
12 digital video disc (DVD), plus an administrative fee of \$10;

13 (3) A search for records, which search fee shall be no more than  
14 ~~[\$10]~~ \$20 per request; provided that no search fee shall be charged  
15 to a patient requesting the patient's own records. A search fee that  
16 may be charged pursuant to this paragraph shall apply even if no  
17 individual treatment or billing record is found as a result of the  
18 search; and

19 (4) The costs for delivering records in any medium, plus sales  
20 tax, if applicable.

21 A licensee shall not assess any fees or charges for a copy of a  
22 patient's treatment or billing records as provided herein other than  
23 those provided for in this section.

24 e. The fees established in subsection d. of this section shall be  
25 charged for electronic copies as well as paper copies of treatment  
26 and billing records.

27 f. Delivery of an electronic copy of a patient treatment or  
28 billing record to the requestor shall be required only if: (1) the  
29 entire request can be reproduced from an electronic health record  
30 system; (2) the record is specifically requested to be delivered in  
31 electronic format; and (3) the record can be delivered electronically.

32 g. A licensee shall not charge a patient for a copy of the  
33 patient's treatment or billing record when:

34 (1) the licensee has affirmatively terminated a patient from  
35 practice in accordance with the requirements of N.J.A.C.13:35-6.22;  
36 or

37 (2) the licensee leaves a practice that the licensee was formerly  
38 a member of, or associated with, and the patient requests that the  
39 patient's medical care continue to be provided by that licensee.

40 h. If the patient or a subsequent treating health care  
41 professional is unable to read the treatment record, either because it  
42 is illegible or prepared in a language other than English, the  
43 licensee shall provide a transcription or translation, as applicable, at  
44 no cost to the patient.

45 i. The licensee shall not refuse to provide a professional  
46 treatment record on the grounds that the patient owes the licensee



1 an unpaid balance if the record is needed by another health care  
2 professional for the purpose of rendering care.

3 j. The fees authorized by this section shall not be imposed on:

4 (1) A patient who does not have the ability to pay and who  
5 presents either: (a) a statement certifying to annual income at or  
6 below 250 percent of the federal poverty level; or (b) proof of  
7 eligibility for, or enrollment in, a State or federal assistance  
8 program including, but not limited to: the federal Supplemental  
9 Nutrition Assistance Program established pursuant to the "Food and  
10 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);  
11 the federal Supplemental Security Income program established  
12 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-  
13 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program  
14 established pursuant to the "Richard B. Russell National School  
15 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal  
16 special supplemental food program for women, infants, and children  
17 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State  
18 Medicaid program established pursuant to the "New Jersey Medical  
19 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et  
20 seq.); the NJ FamilyCare Program established pursuant to the  
21 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et  
22 al.); the Work First New Jersey program established pursuant to the  
23 "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.);  
24 the New Jersey Supplementary Food Stamp Program established  
25 pursuant to the "New Jersey Supplementary Food Stamp Program  
26 Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program;  
27 or any other State or federal assistance program now or hereafter  
28 established by law;

29 (2) A not-for-profit corporation indicating in writing that it is  
30 representing a patient;

31 (3) An attorney representing a patient on a pro bono basis,  
32 provided that the attorney submits with the request a certification  
33 that the attorney is representing the patient on a pro bono basis. An  
34 attorney representing a patient on a contingency fee basis shall be  
35 assessed the ordinary fees to obtain a copy of the patient's records;  
36 or

37 (4) A patient or an attorney representing a patient who has a  
38 pending application for, or is currently receiving, federal Social  
39 Security disability benefits provided under Title II or Title XVI of  
40 the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et  
41 al.).

42 k. As used in this section:

43 "Authorized third party" means a third party, who is not a legally  
44 authorized representative of the patient, with a valid authorization,  
45 subpoena, or court order granting access to a patient's treatment or  
46 billing records.

1 "Legally authorized representative" means: the patient's spouse,  
2 domestic partner, or civil union partner; the patient's immediate  
3 next of kin; the patient's legal guardian; the patient's attorney; the  
4 patient's <sup>1</sup>【third party】<sup>1</sup> automobile insurer; or the patient's worker's  
5 compensation carrier, if the carrier is authorized to access to the  
6 patient's treatment or billing records by contract or law, provided  
7 that access by a worker's compensation carrier shall be limited only  
8 to that portion of the treatment or billing record that is relevant to  
9 the specific work-related incident at issue in the worker's  
10 compensation claim.

11 1. Subject to the requirements of subsection f. of this section,  
12 medical and billing records shall be delivered in the manner  
13 specified by the requestor, which may include, but shall not be  
14 limited to, mailing the record to any address or faxing the record to  
15 any number specified by the requestor, including the requestor's  
16 attorney. Subject to the requirements of federal law, the method of  
17 delivery specified by a requestor shall not affect the fees that would  
18 ordinarily apply to the request under subsections b. and d. of this  
19 section, subject to the provisions of subsections g. and j. of this  
20 section.

21 (cf: P.L.2021, c.359, s.2)

22

23 3. This act shall take effect immediately.

24

25

26

27

28 \_\_\_\_\_  
Limits fees charged for copies of medical and billing records.

# SENATE, No. 2253

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 8, 2022

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Cruz-Perez**

**SYNOPSIS**

Limits fees charged for copies of medical and billing records.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/16/2022)**

1 AN ACT concerning patient records and amending P.L.2019, c.217.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State  
4 of New Jersey:

5

6 1. Section 1 of P.L.2019, c.217 (C.26:2H-5n) is amended to read  
7 as follows:

8 1. a. Except as provided in subsection d. of this section, if a  
9 patient of a general, special, or psychiatric hospital licensed  
10 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **【**or of a State-  
11 licensed health care professional**】**, the patient's legally authorized  
12 representative, or an authorized third party requests, in writing, a  
13 copy of the patient's medical records, the hospital **【**or the health  
14 care professional**】** shall provide a legible paper or electronic  
15 reproduction of the requested records within the dates requested to  
16 the patient, the patient's legally authorized representative, or the  
17 authorized third party within 30 days of the request, in accordance  
18 with the following:

19 (1) (a) For a request by a patient or the patient's legally  
20 authorized representative for a medical record, whether such record  
21 is stored electronically, on microfilm or microfiche, or on paper, the  
22 fee for reproducing the record shall not exceed \$1 per page or \$50  
23 per individual admission record, whichever is less. The fee for  
24 reproducing a medical record shall not exceed \$50 per individual  
25 admission or patient record, inclusive of any additional fees  
26 specified in paragraph (3) of this subsection;

27 (b) If a patient requests a copy of the patient's own medical  
28 records in accordance with the federal "Health Insurance Portability  
29 and Accountability Act of 1996," Pub.L.104-191, the requirements  
30 provided under 45 C.F.R. 164.524(b) with respect to the time  
31 required to respond to such requests and the applicable fees shall  
32 apply; **【and】**

33 (c) A hospital **【**or a health care professional**】** shall not charge  
34 any fee to provide an electronic or paper reproduction of a billing  
35 record requested by a patient, or a patient's legally authorized  
36 representative**【**, or an authorized third party**】**;

37 (d) For a request by an authorized third party, the fee for  
38 reproducing medical and billing records that are not stored on  
39 microfilm or microfiche shall be no more than \$1 per page, and the  
40 fee for reproducing records stored on microfilm or microfiche shall  
41 be \$1.50 per image; and

42 (e) A fee for the reproduction of x-rays or any other material that  
43 cannot be routinely copied or duplicated on a commercial  
44 photocopy machine, which shall be no more than \$15 per printed

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 image or \$30 per compact disc (CD) or digital video disc (DVD),  
2 plus an administrative fee of \$10.

3 (2) Delivery of an electronic reproduction of a patient's medical  
4 or billing record shall be required only if:

5 (a) the entire request can be reproduced from an electronic  
6 health record system;

7 (b) the record is specifically requested to be delivered in  
8 electronic format; and

9 (c) the record can be delivered electronically.

10 (3) In addition to per-page fees, a hospital **【**or a health care  
11 professional**】** shall apply the following charges, provided that the  
12 total fees charged per individual admission record or patient record  
13 do not exceed \$50 for patients and patients' legally authorized  
14 representatives:

15 (a) a search fee of no more than **【\$10】** \$20 per request;  
16 provided that no search fee shall be charged to a patient who is  
17 requesting the patient's own record. If a search fee may be charged  
18 under this subparagraph, the fee shall apply even if no medical  
19 records are found as a result of the search;

20 (b) **【**a fee for the reproduction of x-rays or any other material  
21 that cannot be routinely copied or duplicated on a commercial  
22 photocopy machine, which shall be no more than \$15 per printed  
23 image or \$30 per compact disc (CD) or digital video disc (DVD),  
24 plus an administrative fee of \$10;**】** (deleted by amendment, P.L. ,  
25 c. ) (pending before the Legislature as this bill)

26 (c) a fee for certification of a copy of a medical record of no  
27 more than \$10 per certification; and

28 (d) costs for delivering records in any medium, plus sales tax, if  
29 applicable.

30 (4) The fees established in this subsection shall be charged for  
31 electronic reproductions as well as paper copies of medical records.

32 (5) The hospital **【**or the health care professional**】** shall establish  
33 a policy assuring access to copies of medical records for patients  
34 who do not have the ability to pay for the copies.

35 (6) The hospital **【**or the health care professional**】** shall establish  
36 a fee policy providing an incentive for the use of abstracts or  
37 summaries of medical records; however, a patient **【,** and a patient's  
38 legally authorized representative **【,** or an authorized third party**】**  
39 shall have the right to receive a full or certified copy of the medical  
40 record.

41 (7) Subject to the requirements of paragraph (2) of this subsection,  
42 medical and billing records shall be delivered in the manner specified  
43 by the requestor, which may include, but shall not be limited to,  
44 mailing the record to any address or faxing the record to any number  
45 specified by the requestor, including the requestor's attorney. Subject  
46 to the requirements of federal law, the method of delivery specified by

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4

1 a requestor shall not affect the fees that would ordinarily apply to the  
2 request under paragraphs (1) and (3) of this subsection, subject to any  
3 policies established pursuant to paragraphs (5) and (6) of this  
4 subsection and subject to the provisions of subsections c. and d. of this  
5 section.

6 b. Access to a copy of a patient's medical record shall be  
7 limited only to the extent necessary to protect the patient. The  
8 patient's attending physician shall provide a verbal explanation for  
9 any denial of access to the patient, legally authorized representative,  
10 or authorized third party, and shall document the denial and  
11 explanation in the medical record. In the event that direct access to  
12 a copy by the patient is medically contraindicated, as documented  
13 by a physician in the patient's medical record, the hospital **【**or the  
14 health care professional**】** shall not limit access to the record to a  
15 legally authorized representative of the patient, an authorized third  
16 party, or the patient's attending physician.

17 c. A hospital **【**or a health care professional**】** shall not assess  
18 any fees or charges for a copy of a patient's medical records as  
19 provided herein other than those provided for in this section.

20 d. The fees authorized by this section shall not be imposed on:

21 (1) A patient who does not have the ability to pay and who  
22 presents either: (a) a statement certifying to annual income at or  
23 below 250 percent of the federal poverty level; or (b) proof of  
24 eligibility for, or enrollment in, a State or federal assistance  
25 program including, but not limited to: the federal Supplemental  
26 Nutrition Assistance Program established pursuant to the "Food and  
27 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);  
28 the federal Supplemental Security Income program established  
29 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-  
30 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program  
31 established pursuant to the "Richard B. Russell National School  
32 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal  
33 special supplemental food program for women, infants, and children  
34 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State  
35 Medicaid program established pursuant to the "New Jersey Medical  
36 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et  
37 seq.); the NJ FamilyCare Program established pursuant to the  
38 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et  
39 al.); the Work First New Jersey program established pursuant to the  
40 "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.);  
41 the New Jersey Supplementary Food Stamp Program established  
42 pursuant to the "New Jersey Supplementary Food Stamp Program  
43 Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program;  
44 or any other State or federal assistance program now or hereafter  
45 established by law;

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5

1 (2) A not-for-profit corporation indicating in writing that it is  
2 representing a patient;

3 (3) A health care practitioner;

4 (4) An attorney representing a patient on a pro bono basis,  
5 provided that the attorney submits with the request a certification  
6 that the attorney is representing the patient on a pro bono basis. An  
7 attorney representing a patient on a contingency fee basis shall be  
8 assessed the ordinary fees to obtain a copy of the patient's medical  
9 records; or

10 (5) A patient or an attorney representing a patient who has a  
11 pending application for, or is currently receiving, federal Social  
12 Security disability benefits provided under Title II or Title XVI of the  
13 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et al.).

14 e. As used in this section:

15 "Authorized third party" means a third party, who is not a legally  
16 authorized representative of the patient, with a valid authorization,  
17 subpoena, legal process, or court order granting access to a patient's  
18 medical or billing records.

19 **【“Health care professional” means an individual who, acting**  
20 **within the scope of the individual’s licensure or certification,**  
21 **provides health care services, and includes, but is not limited to, a**  
22 **physician, dentist, nurse, pharmacist, or other health care**  
23 **professional whose professional practice is regulated pursuant to**  
24 **Title 45 of the Revised Statutes.】**

25 "Legally authorized representative" means: the patient's spouse,  
26 domestic partner, or civil union partner; the patient's immediate  
27 next of kin; the patient's legal guardian; the patient's attorney; the  
28 patient's third party automobile insurer; or the patient's worker's  
29 compensation carrier, if the carrier is authorized to access to the  
30 patient's treatment or billing records by contract or law, provided  
31 that access by a worker's compensation carrier shall be limited only  
32 to that portion of the treatment or billing record that is relevant to  
33 the specific work-related incident at issue in the worker's  
34 compensation claim.

35 (cf: P.L.2021, c.427, s.1)

36

37 2. Section 2 of P.L.2019, c.217 (C.45:9-22.27) is amended to read  
38 as follows:

39 2. A person licensed to practice a health care profession regulated  
40 by the State Board of Medical Examiners shall provide copies of  
41 professional treatment and billing records, including treatment records  
42 from other health care providers that are part of a patient's record, to a  
43 patient, the patient's legally authorized representative, or an authorized  
44 third party in accordance with the following:

45 a. No later than 30 days after receipt of a request from a patient, a  
46 patient's legally authorized representative, or an authorized third party,

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6

1 the licensee shall provide an electronic copy or photocopy of the  
2 professional treatment records, billing records, or both, as requested.  
3 The record shall include all pertinent, objective data, including test  
4 results and x-ray results, as applicable, and subjective information.

5 b. Unless otherwise required by law, a licensee may elect to  
6 provide a summary of the record in lieu of providing the electronic  
7 copy or photocopy required pursuant to subsection a. of this section,  
8 provided that the summary adequately reflects the patient's history and  
9 treatment. A licensee may charge a reasonable fee for the preparation  
10 of a summary that has been provided in lieu of the actual record, which  
11 shall not exceed the cost that would be charged for the actual record  
12 pursuant to subsection d. of this section; however, a patient, a patient's  
13 legally authorized representative, or an authorized third party shall  
14 have the right to receive a full or certified copy of the patient's  
15 treatment record. The fee for certification shall be no more than \$10  
16 per certification.

17 c. If, in the exercise of the licensee's professional judgment, a  
18 licensee has reason to believe that the patient's mental or physical  
19 condition will be adversely affected upon being made aware of the  
20 subjective information contained in the professional treatment record  
21 or a summary of the record, the licensee may refuse to provide the  
22 record or summary to the patient. The licensee shall include in the  
23 record a notice setting forth the reasons for the original refusal. The  
24 licensee shall, however, provide a copy of the record or summary upon  
25 request to:

- 26 (1) the patient's attorney;  
27 (2) another licensed health care professional;  
28 (3) the patient's health insurance carrier through an employee  
29 thereof;  
30 (4) a governmental reimbursement program or an agent thereof,  
31 with responsibility to review utilization or quality of care; or  
32 (5) an authorized third party.

33 d. A licensee may require a record request to be in writing and,  
34 except as provided in subsection j. of this section, may charge a fee  
35 for:

36 (1) (a) A request by a patient or a patient's legally authorized  
37 representative for the reproduction of patient treatment and billing  
38 records, which shall be no more than \$1 per page or ~~[\$200]~~ \$50 for  
39 the entire record, whichever is less, ~~[except that, for records stored on~~  
40 ~~microfilm or microfiche, the reproduction fee shall be no more than~~  
41 ~~\$1.50 per image or \$200 for the entire record, whichever is less]~~ and  
42 regardless of whether such record is stored electronically, on  
43 microfilm or microfiche, or on paper; and

44 (b) A request by an authorized third party for the reproduction of  
45 patient treatment and billing records, which shall be no more than \$1



1 per page or, in the case of records stored on microfilm or microfiche,  
2 no more than \$1.50 per image;

3 (2) The reproduction of x-rays or any other material within a  
4 patient treatment record that cannot be routinely copied or duplicated  
5 on a commercial photocopy machine, which shall be no more than \$15  
6 per printed image or \$30 per compact disc (CD) or digital video disc  
7 (DVD), plus an administrative fee of \$10;

8 (3) A search for records, which search fee shall be no more than  
9 ~~[\$10]~~ \$20 per request; provided that no search fee shall be charged to  
10 a patient requesting the patient's own records. A search fee that may  
11 be charged pursuant to this paragraph shall apply even if no individual  
12 treatment or billing record is found as a result of the search; and

13 (4) The costs for delivering records in any medium, plus sales tax,  
14 if applicable.

15 A licensee shall not assess any fees or charges for a copy of a  
16 patient's treatment or billing records as provided herein other than  
17 those provided for in this section.

18 e. The fees established in subsection d. of this section shall be  
19 charged for electronic copies as well as paper copies of treatment and  
20 billing records.

21 f. Delivery of an electronic copy of a patient treatment or billing  
22 record to the requestor shall be required only if: (1) the entire request  
23 can be reproduced from an electronic health record system; (2) the  
24 record is specifically requested to be delivered in electronic format;  
25 and (3) the record can be delivered electronically.

26 g. A licensee shall not charge a patient for a copy of the patient's  
27 treatment or billing record when:

28 (1) the licensee has affirmatively terminated a patient from  
29 practice in accordance with the requirements of N.J.A.C.13:35-6.22; or

30 (2) the licensee leaves a practice that the licensee was formerly a  
31 member of, or associated with, and the patient requests that the  
32 patient's medical care continue to be provided by that licensee.

33 h. If the patient or a subsequent treating health care professional  
34 is unable to read the treatment record, either because it is illegible or  
35 prepared in a language other than English, the licensee shall provide a  
36 transcription or translation, as applicable, at no cost to the patient.

37 i. The licensee shall not refuse to provide a professional  
38 treatment record on the grounds that the patient owes the licensee an  
39 unpaid balance if the record is needed by another health care  
40 professional for the purpose of rendering care.

41 j. The fees authorized by this section shall not be imposed on:

42 (1) A patient who does not have the ability to pay and who  
43 presents either: (a) a statement certifying to annual income at or below  
44 250 percent of the federal poverty level; or (b) proof of eligibility for,  
45 or enrollment in, a State or federal assistance program including, but  
46 not limited to: the federal Supplemental Nutrition Assistance Program

1 established pursuant to the "Food and Nutrition Act of 2008,"  
2 Pub.L.110-246 (7 U.S.C. s.2011 et seq.); the federal Supplemental  
3 Security Income program established pursuant to Title XVI of the  
4 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1381 et seq.);  
5 the National School Lunch Program established pursuant to the  
6 "Richard B. Russell National School Lunch Act," Pub.L.79-396 (42  
7 U.S.C. s.1751 et seq.); the federal special supplemental food program  
8 for women, infants, and children established pursuant to Pub.L.95-627  
9 (42 U.S.C. s.1786); the State Medicaid program established pursuant  
10 to the "New Jersey Medical Assistance and Health Services Act,"  
11 P.L.1968, c.413 (C.30:4D-1 et seq.); the NJ FamilyCare Program  
12 established pursuant to the "Family Health Care Coverage Act,"  
13 P.L.2005, c.156 (C.30:4J-8 et al.); the Work First New Jersey program  
14 established pursuant to the "Work First New Jersey Act," P.L.1997,  
15 c.38 (C.44:10-55 et seq.); the New Jersey Supplementary Food Stamp  
16 Program established pursuant to the "New Jersey Supplementary Food  
17 Stamp Program Act," P.L.1998, c.32 (C.44:10-79 et seq.); any  
18 successor program; or any other State or federal assistance program  
19 now or hereafter established by law;

20 (2) A not-for-profit corporation indicating in writing that it is  
21 representing a patient;

22 (3) An attorney representing a patient on a pro bono basis,  
23 provided that the attorney submits with the request a certification that  
24 the attorney is representing the patient on a pro bono basis. An  
25 attorney representing a patient on a contingency fee basis shall be  
26 assessed the ordinary fees to obtain a copy of the patient's records; or

27 (4) A patient or an attorney representing a patient who has a  
28 pending application for, or is currently receiving, federal Social  
29 Security disability benefits provided under Title II or Title XVI of the  
30 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et al.).

31 k. As used in this section:

32 "Authorized third party" means a third party, who is not a legally  
33 authorized representative of the patient, with a valid authorization,  
34 subpoena, or court order granting access to a patient's treatment or  
35 billing records.

36 "Legally authorized representative" means: the patient's spouse,  
37 domestic partner, or civil union partner; the patient's immediate next of  
38 kin; the patient's legal guardian; the patient's attorney; the patient's  
39 third party automobile insurer; or the patient's worker's compensation  
40 carrier, if the carrier is authorized to access to the patient's treatment or  
41 billing records by contract or law, provided that access by a worker's  
42 compensation carrier shall be limited only to that portion of the  
43 treatment or billing record that is relevant to the specific work-related  
44 incident at issue in the worker's compensation claim.

45 l. Subject to the requirements of subsection f. of this section,  
46 medical and billing records shall be delivered in the manner specified  
47 by the requestor, which may include, but shall not be limited to,

1 mailing the record to any address or faxing the record to any number  
2 specified by the requestor, including the requestor's attorney. Subject  
3 to the requirements of federal law, the method of delivery specified by  
4 a requestor shall not affect the fees that would ordinarily apply to the  
5 request under subsections b. and d. of this section, subject to the  
6 provisions of subsections g. and j. of this section.  
7 (cf: P.L.2021, c.359, s.2)

8

9 3. This act shall take effect immediately.

10

11

12

## STATEMENT

13

14 This bill amends the current law concerning the fees that may be  
15 charged for copies of medical and billing records. A summary of  
16 the amendments to the law pertaining to health care facilities and  
17 the amendments to the law pertaining to health care professionals is  
18 outlined below.

19

20

### Health Care Facilities

21

22 The bill provides that a current prohibition against a hospital  
23 charging a fee to provide an electronic or paper reproduction of a  
24 billing record to certain parties will apply to requests by a patient or  
25 a patient's legally authorized representative for the record, but will  
26 not apply to requests by authorized third parties, which are entities  
27 authorized to access the record but are not actually representing the  
28 patient. For a request by an authorized third party, the fee for  
29 reproducing medical and billing records that are not stored on  
30 microfilm or microfiche is to be no more than \$1 per page, and the  
31 fee for reproducing records stored on microfilm or microfiche is to  
32 be \$1.50 per image.

33 The bill revises the authorized search fee for patient records from  
34 no more than \$10 per request to no more than \$20 per request. As  
35 is provided under current law, no search fee may be charged to a  
36 patient who is requesting the patient's own record.

37 Current law provides that the total fees charged for a record may  
38 not exceed \$50; the bill clarifies that this cap only applies to records  
39 requested by a patient or the patient's legally authorized  
40 representative.

41 The bill clarifies the current definition of "authorized third party"  
42 to clarify that the term means a third party who is not a legally  
43 authorized representative of the patient. The bill additionally  
44 revises the definition of "legally authorized representative" to  
45 clarify that the term "insurer" under the definition means an  
46 automobile insurer.

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10

1 The bill removes references to “health care professionals” from  
2 section 1 of P.L.2019, c.217 (C.26:2H-5n), as health care  
3 professionals are more properly regulated under other chapters of  
4 the statutory law.

5

6

Health Care Professionals

7

8 The bill revises the requirements concerning the fees that may be  
9 charged professional treatment and billing records to reduce the  
10 current per-page fee cap of \$200 to \$50, and provides that the revised  
11 cap applies regardless of the method used to store the record. The bill  
12 additionally revises the authorized fee of up to \$10 per search for of  
13 patient treatment and billing records to no more than \$20 per request.  
14 As provided under current law, no search fee is to be charged to a  
15 patient requesting the patient's own records.

16 The bill clarifies that the current definition of "authorized third  
17 party" means a third party who is not a legally authorized  
18 representative of the patient. The bill additionally revises the  
19 definition of "legally authorized representative" to clarify that the  
20 term “insurer” under the definition means an automobile insurer.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2253**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2022

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 2253.

This bill amends the current law concerning the fees that may be charged for copies of medical and billing records by hospitals and by health care professionals licensed by the Board of Medical Examiners.

With regard to hospitals, the bill provides that a current prohibition against a hospital charging a fee to provide an electronic or paper reproduction of a billing record to certain parties will apply to requests for the record by a patient or the patient's legally authorized representative, but will not apply to requests by authorized third parties, which are entities that are authorized to access the record but are not actually representing the patient.

Current law provides that the fee for reproducing medical and billing records that are not stored on microfilm or microfiche is to be no more than \$1 per page, and the fee for reproducing records stored on microfilm or microfiche is to be \$1.50 per image. Under the bill, the total amount that can be charged to patients and legally authorized representatives in per-page fees is capped at \$50. For authorized third parties, there is no cap on the total amount that can be charged in per-page fees.

The bill removes references to "health care professionals" from section 1 of P.L.2019, c.217 (C.26:2H-5n), as the fee requirements for billing and treatment records for health care professionals are set forth in section 2 of P.L.2019, c.217 (C.45:9-22.27). The bill further revises the health care professional billing law for patients and their legally authorized representatives to reduce the current \$200 cap on per-page fees to \$50, and provides that the revised cap applies regardless of the method used to store the record. For authorized third parties, the current law provides that there is no cap on the total amount that can be charged in per-page fees.

For both hospitals and health care professionals, the bill revises the authorized search fee for patient records from no more than \$10 per request to no more than \$20 per request. As is provided under current law, no search fee may be charged to a patient who is requesting the patient's own record.

For both hospitals and health care professionals, the bill clarifies that the current definition of "authorized third party" means a third party who is not a legally authorized representative of the patient. The bill additionally revises the definition of "legally authorized representative" to clarify that the term "insurer" under the definition means an automobile insurer.

STATEMENT TO  
**SENATE, No. 2253**

with Senate Floor Amendments  
(Proposed by Senator SCUTARI)

ADOPTED: JUNE 16, 2022

These Senate amendments replace certain references in the bill to “a patient’s medical record” with “individual admission records.”

The Senate amendments remove a provision from current law establishing a \$50 cap on the total fees that may be charged for an individual admission record or patient record.

The Senate amendments revise the bill to provide that certain additional fees that may be charged in addition to the per-page fees for individual admission records, including a search fee, a certification fee, and cost of delivery fees, may also be applied to authorized third parties accessing the records.

The Senate amendments remove the words “third party” from a reference to the patient’s automobile insurer.

The Senate amendments make certain technical changes involving syntax.

# ASSEMBLY, No. 3656

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 17, 2022

**Sponsored by:**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Jasey**

**SYNOPSIS**

Limits fees charged for copies of medical and billing records.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/16/2022)



1 AN ACT concerning patient records and amending P.L.2019, c.217.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State  
4 of New Jersey:

5

6 1. Section 1 of P.L.2019, c.217 (C.26:2H-5n) is amended to read  
7 as follows:

8 1. a. Except as provided in subsection d. of this section, if a  
9 patient of a general, special, or psychiatric hospital licensed  
10 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **[**or of a State-  
11 licensed health care professional**]**, the patient's legally authorized  
12 representative, or an authorized third party requests, in writing, a  
13 copy of the patient's medical records, the hospital **[**or the health  
14 care professional**]** shall provide a legible paper or electronic  
15 reproduction of the requested records within the dates requested to  
16 the patient, the patient's legally authorized representative, or the  
17 authorized third party within 30 days of the request, in accordance  
18 with the following:

19 (1) (a) For a request by a patient or the patient's legally  
20 authorized representative for a medical record, whether such record  
21 is stored electronically, on microfilm or microfiche, or on paper, the  
22 fee for reproducing the record shall not exceed \$1 per page or \$50  
23 per individual admission record, whichever is less. The fee for  
24 reproducing a medical record shall not exceed \$50 per individual  
25 admission or patient record, inclusive of any additional fees  
26 specified in paragraph (3) of this subsection;

27 (b) If a patient requests a copy of the patient's own medical  
28 records in accordance with the federal "Health Insurance Portability  
29 and Accountability Act of 1996," Pub.L.104-191, the requirements  
30 provided under 45 C.F.R. 164.524(b) with respect to the time  
31 required to respond to such requests and the applicable fees shall  
32 apply; **[and]**

33 (c) A hospital **[**or a health care professional**]** shall not charge  
34 any fee to provide an electronic or paper reproduction of a billing  
35 record requested by a patient, or a patient's legally authorized  
36 representative**]**, or an authorized third party**]**;

37 (d) For a request by an authorized third party, the fee for  
38 reproducing medical and billing records that are not stored on  
39 microfilm or microfiche shall be no more than \$1 per page, and the  
40 fee for reproducing records stored on microfilm or microfiche shall  
41 be \$1.50 per image; and

42 (e) A fee for the reproduction of x-rays or any other material  
43 that cannot be routinely copied or duplicated on a commercial  
44 photocopy machine, which shall be no more than \$15 per printed

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 image or \$30 per compact disc (CD) or digital video disc (DVD),  
2 plus an administrative fee of \$10.

3 (2) Delivery of an electronic reproduction of a patient's medical  
4 or billing record shall be required only if:

5 (a) the entire request can be reproduced from an electronic  
6 health record system;

7 (b) the record is specifically requested to be delivered in  
8 electronic format; and

9 (c) the record can be delivered electronically.

10 (3) In addition to per-page fees, a hospital **【**or a health care  
11 professional**】** shall apply the following charges, provided that the  
12 total fees charged per individual admission record or patient record  
13 do not exceed \$50 for patients and patients' legally authorized  
14 representatives:

15 (a) a search fee of no more than **【\$10】** \$20 per request;  
16 provided that no search fee shall be charged to a patient who is  
17 requesting the patient's own record. If a search fee may be charged  
18 under this subparagraph, the fee shall apply even if no medical  
19 records are found as a result of the search;

20 (b) **【**a fee for the reproduction of x-rays or any other material  
21 that cannot be routinely copied or duplicated on a commercial  
22 photocopy machine, which shall be no more than \$15 per printed  
23 image or \$30 per compact disc (CD) or digital video disc (DVD),  
24 plus an administrative fee of \$10;**】** (deleted by amendment,  
25 P.L. , c. ) (pending before the Legislature as this bill)

26 (c) a fee for certification of a copy of a medical record of no  
27 more than \$10 per certification; and

28 (d) costs for delivering records in any medium, plus sales tax, if  
29 applicable.

30 (4) The fees established in this subsection shall be charged for  
31 electronic reproductions as well as paper copies of medical records.

32 (5) The hospital **【**or the health care professional**】** shall establish  
33 a policy assuring access to copies of medical records for patients  
34 who do not have the ability to pay for the copies.

35 (6) The hospital **【**or the health care professional**】** shall establish  
36 a fee policy providing an incentive for the use of abstracts or  
37 summaries of medical records; however, a patient **【,** and a patient's  
38 legally authorized representative **【,** or an authorized third party**】**  
39 shall have the right to receive a full or certified copy of the medical  
40 record.

41 (7) Subject to the requirements of paragraph (2) of this subsection,  
42 medical and billing records shall be delivered in the manner specified  
43 by the requestor, which may include, but shall not be limited to,  
44 mailing the record to any address or faxing the record to any number  
45 specified by the requestor, including the requestor's attorney. Subject  
46 to the requirements of federal law, the method of delivery specified by  
47 a requestor shall not affect the fees that would ordinarily apply to the

1 request under paragraphs (1) and (3) of this subsection, subject to any  
2 policies established pursuant to paragraphs (5) and (6) of this  
3 subsection and subject to the provisions of subsections c. and d. of this  
4 section.

5 b. Access to a copy of a patient's medical record shall be  
6 limited only to the extent necessary to protect the patient. The  
7 patient's attending physician shall provide a verbal explanation for  
8 any denial of access to the patient, legally authorized representative,  
9 or authorized third party, and shall document the denial and  
10 explanation in the medical record. In the event that direct access to  
11 a copy by the patient is medically contraindicated, as documented  
12 by a physician in the patient's medical record, the hospital **【**or the  
13 health care professional**】** shall not limit access to the record to a  
14 legally authorized representative of the patient, an authorized third  
15 party, or the patient's attending physician.

16 c. A hospital **【**or a health care professional**】** shall not assess  
17 any fees or charges for a copy of a patient's medical records as  
18 provided herein other than those provided for in this section.

19 d. The fees authorized by this section shall not be imposed on:

20 (1) A patient who does not have the ability to pay and who  
21 presents either: (a) a statement certifying to annual income at or  
22 below 250 percent of the federal poverty level; or (b) proof of  
23 eligibility for, or enrollment in, a State or federal assistance  
24 program including, but not limited to: the federal Supplemental  
25 Nutrition Assistance Program established pursuant to the "Food and  
26 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);  
27 the federal Supplemental Security Income program established  
28 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-  
29 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program  
30 established pursuant to the "Richard B. Russell National School  
31 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal  
32 special supplemental food program for women, infants, and children  
33 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State  
34 Medicaid program established pursuant to the "New Jersey Medical  
35 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et  
36 seq.); the NJ FamilyCare Program established pursuant to the  
37 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et  
38 al.); the Work First New Jersey program established pursuant to the  
39 "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.);  
40 the New Jersey Supplementary Food Stamp Program established  
41 pursuant to the "New Jersey Supplementary Food Stamp Program  
42 Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program;  
43 or any other State or federal assistance program now or hereafter  
44 established by law;

45 (2) A not-for-profit corporation indicating in writing that it is  
46 representing a patient;

47 (3) A health care practitioner;

1 (4) An attorney representing a patient on a pro bono basis,  
2 provided that the attorney submits with the request a certification  
3 that the attorney is representing the patient on a pro bono basis. An  
4 attorney representing a patient on a contingency fee basis shall be  
5 assessed the ordinary fees to obtain a copy of the patient's medical  
6 records; or

7 (5) A patient or an attorney representing a patient who has a  
8 pending application for, or is currently receiving, federal Social  
9 Security disability benefits provided under Title II or Title XVI of the  
10 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et al.).

11 e. As used in this section:

12 "Authorized third party" means a third party, who is not a legally  
13 authorized representative of the patient, with a valid authorization,  
14 subpoena, legal process, or court order granting access to a patient's  
15 medical or billing records.

16 **【“Health care professional” means an individual who, acting**  
17 **within the scope of the individual’s licensure or certification,**  
18 **provides health care services, and includes, but is not limited to, a**  
19 **physician, dentist, nurse, pharmacist, or other health care**  
20 **professional whose professional practice is regulated pursuant to**  
21 **Title 45 of the Revised Statutes.】**

22 "Legally authorized representative" means: the patient's spouse,  
23 domestic partner, or civil union partner; the patient's immediate  
24 next of kin; the patient's legal guardian; the patient's attorney; the  
25 patient's third party automobile insurer; or the patient's worker's  
26 compensation carrier, if the carrier is authorized to access to the  
27 patient's treatment or billing records by contract or law, provided  
28 that access by a worker's compensation carrier shall be limited only  
29 to that portion of the treatment or billing record that is relevant to  
30 the specific work-related incident at issue in the worker's  
31 compensation claim.

32 (cf: P.L.2021, c.427, s.1)

33

34 2. Section 2 of P.L.2019, c.217 (C.45:9-22.27) is amended to read  
35 as follows:

36 2. A person licensed to practice a health care profession regulated  
37 by the State Board of Medical Examiners shall provide copies of  
38 professional treatment and billing records, including treatment records  
39 from other health care providers that are part of a patient's record, to a  
40 patient, the patient's legally authorized representative, or an authorized  
41 third party in accordance with the following:

42 a. No later than 30 days after receipt of a request from a patient, a  
43 patient's legally authorized representative, or an authorized third party,  
44 the licensee shall provide an electronic copy or photocopy of the  
45 professional treatment records, billing records, or both, as requested.  
46 The record shall include all pertinent, objective data, including test  
47 results and x-ray results, as applicable, and subjective information.

1       b. Unless otherwise required by law, a licensee may elect to  
2 provide a summary of the record in lieu of providing the electronic  
3 copy or photocopy required pursuant to subsection a. of this section,  
4 provided that the summary adequately reflects the patient's history and  
5 treatment. A licensee may charge a reasonable fee for the preparation  
6 of a summary that has been provided in lieu of the actual record, which  
7 shall not exceed the cost that would be charged for the actual record  
8 pursuant to subsection d. of this section; however, a patient, a patient's  
9 legally authorized representative, or an authorized third party shall  
10 have the right to receive a full or certified copy of the patient's  
11 treatment record. The fee for certification shall be no more than \$10  
12 per certification.

13       c. If, in the exercise of the licensee's professional judgment, a  
14 licensee has reason to believe that the patient's mental or physical  
15 condition will be adversely affected upon being made aware of the  
16 subjective information contained in the professional treatment record  
17 or a summary of the record, the licensee may refuse to provide the  
18 record or summary to the patient. The licensee shall include in the  
19 record a notice setting forth the reasons for the original refusal. The  
20 licensee shall, however, provide a copy of the record or summary upon  
21 request to:

22       (1) the patient's attorney;

23       (2) another licensed health care professional;

24       (3) the patient's health insurance carrier through an employee  
25 thereof;

26       (4) a governmental reimbursement program or an agent thereof,  
27 with responsibility to review utilization or quality of care; or

28       (5) an authorized third party.

29       d. A licensee may require a record request to be in writing and,  
30 except as provided in subsection j. of this section, may charge a fee  
31 for:

32       (1) (a) A request by a patient or a patient's legally authorized  
33 representative for the reproduction of patient treatment and billing  
34 records, which shall be no more than \$1 per page or ~~【\$200】~~ \$50 for  
35 the entire record, whichever is less, ~~【except that, for records stored on~~  
36 ~~microfilm or microfiche, the reproduction fee shall be no more than~~  
37 ~~\$1.50 per image or \$200 for the entire record, whichever is less】~~ and  
38 regardless of whether such record is stored electronically, on  
39 microfilm or microfiche, or on paper; and

40       (b) A request by an authorized third party for the reproduction of  
41 patient treatment and billing records, which shall be no more than \$1  
42 per page or, in the case of records stored on microfilm or microfiche,  
43 no more than \$1.50 per image;

44       (2) The reproduction of x-rays or any other material within a  
45 patient treatment record that cannot be routinely copied or duplicated  
46 on a commercial photocopy machine, which shall be no more than \$15  
47 per printed image or \$30 per compact disc (CD) or digital video disc  
48 (DVD), plus an administrative fee of \$10;

1 (3) A search for records, which search fee shall be no more than  
2 ~~[\$10]~~ \$20 per request; provided that no search fee shall be charged to  
3 a patient requesting the patient's own records. A search fee that may  
4 be charged pursuant to this paragraph shall apply even if no individual  
5 treatment or billing record is found as a result of the search; and

6 (4) The costs for delivering records in any medium, plus sales tax,  
7 if applicable.

8 A licensee shall not assess any fees or charges for a copy of a  
9 patient's treatment or billing records as provided herein other than  
10 those provided for in this section.

11 e. The fees established in subsection d. of this section shall be  
12 charged for electronic copies as well as paper copies of treatment and  
13 billing records.

14 f. Delivery of an electronic copy of a patient treatment or billing  
15 record to the requestor shall be required only if: (1) the entire request  
16 can be reproduced from an electronic health record system; (2) the  
17 record is specifically requested to be delivered in electronic format;  
18 and (3) the record can be delivered electronically.

19 g. A licensee shall not charge a patient for a copy of the patient's  
20 treatment or billing record when:

21 (1) the licensee has affirmatively terminated a patient from  
22 practice in accordance with the requirements of N.J.A.C.13:35-6.22; or

23 (2) the licensee leaves a practice that the licensee was formerly a  
24 member of, or associated with, and the patient requests that the  
25 patient's medical care continue to be provided by that licensee.

26 h. If the patient or a subsequent treating health care professional  
27 is unable to read the treatment record, either because it is illegible or  
28 prepared in a language other than English, the licensee shall provide a  
29 transcription or translation, as applicable, at no cost to the patient.

30 i. The licensee shall not refuse to provide a professional  
31 treatment record on the grounds that the patient owes the licensee an  
32 unpaid balance if the record is needed by another health care  
33 professional for the purpose of rendering care.

34 j. The fees authorized by this section shall not be imposed on:

35 (1) A patient who does not have the ability to pay and who  
36 presents either: (a) a statement certifying to annual income at or below  
37 250 percent of the federal poverty level; or (b) proof of eligibility for,  
38 or enrollment in, a State or federal assistance program including, but  
39 not limited to: the federal Supplemental Nutrition Assistance Program  
40 established pursuant to the "Food and Nutrition Act of 2008,"  
41 Pub.L.110-246 (7 U.S.C. s.2011 et seq.); the federal Supplemental  
42 Security Income program established pursuant to Title XVI of the  
43 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1381 et seq.);  
44 the National School Lunch Program established pursuant to the  
45 "Richard B. Russell National School Lunch Act," Pub.L.79-396  
46 (42 U.S.C. s.1751 et seq.); the federal special supplemental food  
47 program for women, infants, and children established pursuant to  
48 Pub.L.95-627 (42 U.S.C. s.1786); the State Medicaid program

1 established pursuant to the "New Jersey Medical Assistance and  
2 Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.); the NJ  
3 FamilyCare Program established pursuant to the "Family Health Care  
4 Coverage Act," P.L.2005, c.156 (C.30:4J-8 et al.); the Work First New  
5 Jersey program established pursuant to the "Work First New Jersey  
6 Act," P.L.1997, c.38 (C.44:10-55 et seq.); the New Jersey  
7 Supplementary Food Stamp Program established pursuant to the "New  
8 Jersey Supplementary Food Stamp Program Act," P.L.1998, c.32  
9 (C.44:10-79 et seq.); any successor program; or any other State or  
10 federal assistance program now or hereafter established by law;

11 (2) A not-for-profit corporation indicating in writing that it is  
12 representing a patient;

13 (3) An attorney representing a patient on a pro bono basis,  
14 provided that the attorney submits with the request a certification that  
15 the attorney is representing the patient on a pro bono basis. An  
16 attorney representing a patient on a contingency fee basis shall be  
17 assessed the ordinary fees to obtain a copy of the patient's records; or

18 (4) A patient or an attorney representing a patient who has a  
19 pending application for, or is currently receiving, federal Social  
20 Security disability benefits provided under Title II or Title XVI of the  
21 federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et al.).

22 k. As used in this section:

23 "Authorized third party" means a third party, who is not a legally  
24 authorized representative of the patient, with a valid authorization,  
25 subpoena, or court order granting access to a patient's treatment or  
26 billing records.

27 "Legally authorized representative" means: the patient's spouse,  
28 domestic partner, or civil union partner; the patient's immediate next of  
29 kin; the patient's legal guardian; the patient's attorney; the patient's  
30 third party automobile insurer; or the patient's worker's compensation  
31 carrier, if the carrier is authorized to access to the patient's treatment or  
32 billing records by contract or law, provided that access by a worker's  
33 compensation carrier shall be limited only to that portion of the  
34 treatment or billing record that is relevant to the specific work-related  
35 incident at issue in the worker's compensation claim.

36 l. Subject to the requirements of subsection f. of this section,  
37 medical and billing records shall be delivered in the manner specified  
38 by the requestor, which may include, but shall not be limited to,  
39 mailing the record to any address or faxing the record to any number  
40 specified by the requestor, including the requestor's attorney. Subject  
41 to the requirements of federal law, the method of delivery specified by  
42 a requestor shall not affect the fees that would ordinarily apply to the  
43 request under subsections b. and d. of this section, subject to the  
44 provisions of subsections g. and j. of this section.

45 (cf: P.L.2021, c.359, s.2)

46

47 3. This act shall take effect immediately.

## STATEMENT

1  
2  
3 This bill amends the current law concerning the fees that may be  
4 charged for copies of medical and billing records. A summary of  
5 the amendments to the law pertaining to health care facilities and  
6 the amendments to the law pertaining to health care professionals is  
7 outlined below.

Health Care Facilities

8  
9  
10  
11 The bill provides that a current prohibition against a hospital  
12 charging a fee to provide an electronic or paper reproduction of a  
13 billing record to certain parties will apply to requests by a patient or  
14 a patient's legally authorized representative for the record, but will  
15 not apply to requests by authorized third parties, which are entities  
16 authorized to access the record but are not actually representing the  
17 patient. For a request by an authorized third party, the fee for  
18 reproducing medical and billing records that are not stored on  
19 microfilm or microfiche is to be no more than \$1 per page, and the  
20 fee for reproducing records stored on microfilm or microfiche is to  
21 be \$1.50 per image.

22 The bill revises the authorized search fee for patient records from  
23 no more than \$10 per request to no more than \$20 per request. As  
24 is provided under current law, no search fee may be charged to a  
25 patient who is requesting the patient's own record.

26 Current law provides that the total fees charged for a record may  
27 not exceed \$50; the bill clarifies that this cap only applies to records  
28 requested by a patient or the patient's legally authorized  
29 representative.

30 The bill clarifies the current definition of "authorized third party"  
31 to clarify that the term means a third party who is not a legally  
32 authorized representative of the patient. The bill additionally  
33 revises the definition of "legally authorized representative" to  
34 clarify that the term "insurer" under the definition means an  
35 automobile insurer.

36 The bill removes references to "health care professionals" from  
37 section 1 of P.L.2019, c.217 (C.26:2H-5n), as health care  
38 professionals are more properly regulated under other chapters of  
39 the statutory law.

Health Care Professionals

40  
41  
42  
43 The bill revises the requirements concerning the fees that may be  
44 charged professional treatment and billing records to reduce the  
45 current per-page fee cap of \$200 to \$50, and provides that the revised  
46 cap applies regardless of the method used to store the record. The bill  
47 additionally revises the authorized fee of up to \$10 per search for of  
48 patient treatment and billing records to no more than \$20 per request.



**A3656 STANLEY, MCKNIGHT**

10

1 As provided under current law, no search fee is to be charged to a  
2 patient requesting the patient's own records.

3 The bill clarifies that the current definition of "authorized third  
4 party" means a third party who is not a legally authorized  
5 representative of the patient. The bill additionally revises the  
6 definition of "legally authorized representative" to clarify that the  
7 term "insurer" under the definition means an automobile insurer.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3656

# STATE OF NEW JERSEY

DATED: JUNE 14, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3656.

This bill amends the current law concerning the fees that may be charged for copies of medical and billing records. A summary of the amendments to the law pertaining to health care facilities and the amendments to the law pertaining to health care professionals is outlined below.

#### Health Care Facilities

The bill provides that a current prohibition against a hospital charging a fee to provide an electronic or paper reproduction of a billing record to certain parties will apply to requests by a patient or a patient's legally authorized representative for the record, but will not apply to requests by authorized third parties, which are entities authorized to access the record but are not actually representing the patient. For a request by an authorized third party, the fee for reproducing medical and billing records that are not stored on microfilm or microfiche is to be no more than \$1 per page, and the fee for reproducing records stored on microfilm or microfiche is to be \$1.50 per image.

The bill revises the authorized search fee for patient records from no more than \$10 per request to no more than \$20 per request. As is provided under current law, no search fee may be charged to a patient who is requesting the patient's own record.

Current law provides that the total fees charged for a record may not exceed \$50; the bill clarifies that this cap only applies to records requested by a patient or the patient's legally authorized representative.

The bill clarifies the current definition of "authorized third party" to clarify that the term means a third party who is not a legally authorized representative of the patient. The bill additionally revises the definition of "legally authorized representative" to clarify that the term "insurer" under the definition means an automobile insurer.

The bill removes references to "health care professionals" from section 1 of P.L.2019, c.217 (C.26:2H-5n), as health care

professionals are more properly regulated under other chapters of the statutory law.

Health Care Professionals

The bill revises the requirements concerning the fees that may be charged professional treatment and billing records to reduce the current per-page fee cap of \$200 to \$50, and provides that the revised cap applies regardless of the method used to store the record. The bill additionally revises the authorized fee of up to \$10 per search for of patient treatment and billing records to no more than \$20 per request.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

STATEMENT TO  
**ASSEMBLY, No. 3656**

with Assembly Floor Amendments  
(Proposed by Assemblyman STANLEY)

ADOPTED: JUNE 16, 2022

These Assembly amendments replace certain references in the bill to “a patient’s medical record” with “individual admission records.”

The Assembly amendments remove a provision from current law establishing a \$50 cap on the total fees that may be charged for an individual admission record or patient record.

The Assembly amendments revise the bill to provide that certain additional fees that may be charged in addition to the per-page fees for individual admission records, including a search fee, a certification fee, and cost of delivery fees, may also be applied to authorized third parties accessing the records.

The Assembly amendments remove the words “third party” from a reference to the patient’s automobile insurer.

The Assembly amendments make certain technical changes involving syntax.

# Governor Murphy Takes Action on Legislation

09/22/2022

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**S-772/A-1929 (Pou, Pennacchio/Swain, Dancer, McKnight)** - Directs Department of Agriculture to establish New Jersey Minority, Women, and Underserved Farmer Registry

**S-1027/A-2208 (Singleton, Cruz-Perez/Greenwald, Verrelli, Sampson)** - Includes duct cleaning as public work subject to the prevailing wage law

**S-2253/A-3656 (Scutari, Pou/Stanley, McKnight, Benson)** - Limits fees charged for copies of medical and billing records

The Governor vetoed the following bills:

**S-757/S-2772 (Sarlo, Oroho/Freiman, Mukherji, Dancer) - CONDITIONAL** - Authorizes special occasion events at certain commercial farms on preserved farmland, under certain conditions

[Copy of Statement](#)

**SCS for S-2357/ACS for A-3830 (Madden, Lagana/Moriarty, Haider, Danielsen) - CONDITIONAL** - Concerns timely payment of UI benefits

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**A-1474/S-511 (Lopez, Danielsen, Carter/Cryan) - CONDITIONAL** - Provides certain protections and rights for temporary laborers.

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