

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 798

Short Title: Release of Medical Records. (Public)

Sponsors: Representatives D. Hall, Moffitt, Murry, and Baskerville (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health and Human Services, if favorable, Finance.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT DEFINING PATIENT MEDICAL RECORDS AND FINANCIAL RECORDS,
3 REQUIRING THE TIMELY RELEASE OF PATIENT MEDICAL RECORDS AND
4 FINANCIAL RECORDS UPON REQUEST OF THE PATIENT OR A PERSONAL
5 REPRESENTATIVE OF THE PATIENT, AND ESTABLISHING A CIVIL MONETARY
6 PENALTY FOR VIOLATIONS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 90-410 reads as rewritten:

9 "§ 90-410. Definitions.

10 As used in this Article:

- 11 (1) ~~"Health care provider" means any~~Health care provider. – Any person who is
12 licensed or certified to practice a health profession or occupation under this
13 Chapter or Chapters 90B or 90C of the General Statutes, a health care
14 facility licensed under Chapters 131E or 122C of the General Statutes, and a
15 representative or agent of a health care provider.
- 16 (2) ~~"Medical records" means personal information that relates to an individual's~~
17 ~~physical or mental condition, medical history, or medical treatment,~~
18 ~~excluding X rays and fetal monitor records.~~Medical records. – The entire set
19 of information in existence that is created or maintained by a health care
20 provider in connection with the diagnosis, care, and treatment of an
21 individual. The term includes (i) information received by a licensed health
22 care provider from another licensed health care provider to the extent that
23 the information is utilized in the diagnosis, care, and treatment of an
24 individual and (ii) information from all departments and locations of the
25 licensed health care provider regardless of the date or clinical significance of
26 the information and regardless of the format in which the information is
27 stored.
- 28 (3) Financial records or patient financial information. – The entire set of
29 financial information in existence regarding an individual that is within the
30 possession, custody, or control of a licensed health care provider. The term
31 includes financial records maintained by a licensed health care provider that
32 would be in the provider's "designated record set" as defined by the Health
33 Insurance Portability and Accountability Act, Privacy Rule, 45 C.F.R. §
34 164.501. It also includes, but is not limited to, charges for care rendered to



1 an individual, bills submitted to patients or to third-party payors on behalf of
2 patients, claims adjudication records, and records of adjustments to bills and
3 charges.

4 (4) Personal representative. – Includes all of the following:

5 a. For an adult or an emancipated minor, a person with legal authority
6 to make health care decisions on behalf of the individual.

7 b. For an unemancipated minor, a parent, guardian, or other person
8 acting in loco parentis with legal authority to make health care
9 decisions on behalf of the unemancipated minor.

10 c. For deceased individuals, the administrator, executor, or, in the event
11 of an unadministered estate, the next-of-kin of the decedent. In the
12 event of an unadministered estate, the next-of-kin shall verify that the
13 estate is unadministered and that he is the next of kin."

14 **SECTION 2.** Article 29 of Chapter 90 of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 90-410.1. Requests for medical records.**

17 (a) Upon receipt of a written request for medical records, financial records, specific
18 portions of the medical records or financial records, or any combination of these records by the
19 individual who is the subject of the records or by that individual's personal representative, in a
20 manner that is compliant with the Health Insurance Portability and Accountability Act, Privacy
21 Rule and Security Rule, 45 C.F.R. §§ 160, 164, a health care provider shall do all of the
22 following:

23 (1) Within 15 business days after receiving the written request, provide the
24 requester with an invoice for the record copy fee computed in accordance
25 with G.S. 90-411.

26 (2) Within 15 business days after the health care provider receives the full
27 amount of the record copy fee from the requester, provide to the requester a
28 copy of the requested records.

29 (3) Certify in a writing transmitted with the requested records that the health
30 care provider has made a diligent search for the requested records and has
31 provided the requester with a complete copy of all the requested records.

32 (b) The requester may rely upon the health care provider certification required in
33 subsection (a)(3) of this section for purposes of complying with G.S. 1A-1, Rule 9(j).

34 (c) The statute of limitations for a medical malpractice action brought under Article 1B
35 of Chapter 90 of the General Statutes shall be tolled one day for each day a health care provider
36 fails to comply with subdivision (a)(2) of this section.

37 (d) The appropriate State licensing board or State agency shall impose and collect from
38 a health care provider a civil monetary penalty not to exceed one hundred dollars (\$100.00) per
39 day for each day the health care provider fails to comply with the provisions of this section."

40 **SECTION 3.** This act becomes effective October 1, 2013.