Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1496

Brief Description: Strengthening patients' rights regarding their health care information.

Sponsors: Representatives Berry, Bronoske, Abbarno, Lekanoff, Doglio, Peterson, Reed, Griffey, Simmons, Goodman, Parshley, Ormsby, Fosse, Pollet, Hill, Salahuddin and Scott.

Brief Summary of Bill

- Directs the Department of Social and Health Services to determine the standard for a reasonable fee that health care providers and facilities may charge for providing health care information based upon several factors related to the availability of electronic record searching and the actual cost of producing patient records rather than a per page cost.
- Limits charges for providing patient health care information to no more than $50 when provided to the patient or the patient's representative, attorney, health care provider, advocate, or guardian.
- Allows a court to award attorneys' fees and expenses to the prevailing patient, rather than the prevailing party, in actions against a health care provider or facility for noncompliance with the Uniform Health Care Information Act.

Hearing Date: 1/16/26

Staff: Chris Blake (786-7392).

Background:

The Uniform Health Care Information Act governs the disclosure of health care information by health care providers and their agents or employees in Washington. A patient may authorize a health care provider or facility to disclose the patient's health care information. An authorization

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must be in writing, dated, and signed by the patient.

Health care providers may charge a reasonable fee for providing copies of health care information and are not required to honor an authorization to disclose health care information until it is paid. Upon request, a health care provider or facility must provide the patient or the patient's representative with a copy of the patient's health care information at no cost if the patient is appealing the denial of federal supplemental security income or social security disability benefits.

A "reasonable fee" is established in statute as 65 cents per page for the first 30 pages and 50 cents per page for any additional pages. A clerical fee of $15 may also be charged for searching and handling. The amounts must be adjusted every two years according to changes in the Consumer Price Index, as determined by the Secretary of Health (Secretary). If the records must be edited and the editing is done by the health care provider personally, the relevant fee may be the usual and customary charge for a basic office visit. The current adjusted rates, as adopted in rule by the Secretary, are $1.24 per page for the first 30 pages, 94 cents per page for all other pages, and a clerical fee of up to $28.

Federal law allows individuals to request a copy of their protected health information or a summary or explanation of the information. Covered entities are permitted to charge a reasonable, cost-based fee, as long as the fee only includes the cost of labor for copying; supplies for creating a paper copy or electronic media, postage; and preparing an explanation or summary of the protected health information. Federal laws do not override state laws that provide individuals with greater rights of access to their health care information, including state laws that allow fees that are less than those permitted under federal law.

Summary of Bill:

A new standard for determining a reasonable fee that a health care provider may charge for providing patient health care information is established. The new standard removes the definition of a "reasonable fee" in terms of permissible per page amounts and clerical fees with biennial adjustments by the Department of Health and a usual and customary charge in cases in which a health care provider must edit the records is removed. The new standard authorizes the Department of Social and Health Services (DSHS) to establish, in rule, standards for a reasonable fee that a health care provider may charge for exchanging or providing access to health care information. The DSHS standards must:

- recognize the prevalence of the use of electronic health record searching;
- recognize exchange capabilities;
- consider federal laws related to the establishment of fees for accessing and exchanging health care information; and
- be based upon actual costs for searching and producing particular patient records, rather than a per page calculation.

Health care providers and facilities may charge a reasonable fee in accordance with the DSHS

standards and are not required to honor a disclosure authorization until the fee is paid. Despite the authority to charge a fee, health care providers and facilities, as well as third parties acting on their behalf, are prohibited from charging a fee of more than $50 for providing a patient's health care information to:

- the patient;
- the patient's representative, including a person authorized to consent to health care for the patient;
- an attorney who is representing the patient or the patient's estate;
- a health care provider or facility providing health care services to the patient;
- a community-based or system-based advocate designated by the patient; or
- the patient's guardian.

The requirement that health care providers and facilities provide a copy of the patient's health care information at no cost if the patient is appealing the denial of federal supplemental security income or social security disability benefits is removed.

The patient's personal representative, or any person or entity designated by the patient, may sign authorizations to disclose health care information and examine and receive a copy of the information.

A health care provider or facility is not required to honor a disclosure authorization if there is an exemption to disclosure under federal law.

In cases involving an action against a health care provider for noncompliance with the Uniform Health Care Information Act, a court may award reasonable attorneys' fees and other expenses reasonably incurred to the prevailing patient, rather than the prevailing party. The term "prevailing patient" includes the patient, the patient's legal or authorized representative, the patient's power of attorney, the patient's guardian, and the patient's estate.

The exclusion of "mediation prescription and monitoring" from the definition of "psychotherapy notes" is changed to exclude "medication prescription and monitoring."

Updates the phrasing of health care provider and facility responsibilities to require them to assist the recipient with obtaining the records rather than copying them.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.