HOUSE BILL REPORT
HB 1496

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to strengthening patients' rights regarding their health care information by promoting access to information and providing enforcement protections for the appropriate use of the information.

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 History:
Committee Activity:
Health Care & Wellness: 1/16/26, 1/30/26 [DPS].

Brief Summary of Substitute Bill

- Limits charges for providing patient health care information that is stored electronically to no more than $50 when provided in an electronic format to the patient or the patient's representative, attorney, or community-based or system-based advocate.
- 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.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Bronoske, Chair; Lekanoff, Vice Chair; Rule, Vice Chair; Marshall, Assistant Ranking Minority Member; Valdez, Assistant Ranking Minority Member; Davis, Macri, Obras, Parshley, Shavers, Simmons, Stonier, Stuebe and Thai.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 3 members: Representatives Schmick, Ranking Minority Member; Engell and Manjarrez.

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 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 Substitute Bill:

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 that is stored electronically and delivered in an electronic format 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
- a community-based or system-based advocate designated by the patient.

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, the patient's personal representative, an attorney representing the patient, or a community-based or system-based advocate designated by the patient, may examine and receive a copy of a patient's health care 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."

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

Substitute Bill Compared to Original Bill:

The substitute bill restores 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. The direction to the Department of Social and Health Services to establish a reasonable fee standard for a health care provider to charge for exchanging or providing access to health care information is removed.

The substitute bill restricts the application of the $50 fee limit for providing patient health care information to the patient or other specified persons to only information that is stored electronically at the time of the request and delivered in an electronic format. The list of people who may receive health care information at the $50 rate is limited to the patient, the patient's representative, the patient's attorney, and community-based or system-based advocates designated by the patient.

The substitute bill recognizes exceptions established in the federal Health Insurance Portability and Accountability Act of 1996 related to a health care provider's or facility's authority to charge a fee for providing health care information to a person.

The substitute bill removes the permission for the patient's personal representative or any person or entity designated by the patient to receive health care information to sign a disclosure authorization.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) This bill is about closing a loophole in state law that allows corporations to charge patients tens of thousands of dollars to access their own medical records. This bill will ensure that people have access to their own medical information at a reasonable cost. Technology companies have monopolized access to patient medical records and are using outdated state statutes to charge outrageous prices for access to those records and this bill is needed to restore affordability. Many other states have enacted fee caps to protect patients.

The medical record retrieval process has become a barrier to patient access to records and to a victim's access to justice. This bill is a necessary step to ensure victims are not priced out of safety and justice. Injured workers should not be forced to spend precious time, energy, or money trying to obtain documents that are essential to their recovery and legal rights. Costs should never be the reason a sexual or domestic violence survivor cannot obtain emergency protection or enforce a basic legal right, yet in practice, the cost of medical records is repeatedly a barrier.

(Opposed) This bill is not about access by patients to their medical records, rather it is about applying a $50 cap on requests by third parties and attorneys for a patient's medical records. This bill jeopardizes patients' privacy rights, and shifts the administrative burden and expense to providers, and ultimately the patients. Producing medical records is very staff-intensive and it is not reasonable to expect hospitals to provide attorneys with documents at a rate that doesn't cover their costs. This bill suggests that labor should be provided for next to nothing. Under federal law, legal representatives are defined as third parties, and third-party disclosures require additional legally mandated steps to ensure that highly sensitive records are not released inappropriately. Medical records are not always stored in one place and may go back 26 years and require searching electronic health records, paper records, and images.

This bill eliminates the ability for health care providers to cover costs associated with requests for extensive medical records and would put a significant burden on small providers. A higher cap of around $300 would significantly reduce the risk to smaller providers. This bill would take people away from their jobs at smaller providers and it may take many hours to go through old records. The fee cap may discourage health care providers from accepting certain types of patients.

The list of who may receive the medical records is confusing. The change to only allowing prevailing patients to receive attorneys fees should be removed.

Persons Testifying: (In support) Representative Liz Berry, prime sponsor; Riddhi Mukhopadhyay, Sexual Violence Law Center; Elizabeth Hanley, Washington State Association for Justice; Pamela Wells, Washington State Association for Justice; Daniel Hinkle, American Association for Justice; and Lamar Stewart, ILWU Local 4 and WA Area District Council.

(Opposed) Jennifer Burkhardt, Summit Pacific Medical Center; Leslie Emerick, WA State Podiatric Medicine Assn., WA Acupuncture and E. Medicine Assn, American Massage Therapy Assn.; Elizabeth Elizabeth, AHIOS; Zosia Stanley, Washington State Hospital Association; Lisa Thatcher, Washington State Hospital Association ; Elizabeth McElhiney, AHIOS; Julianne Ferguson, HCAOA-WA; and Ariana Will, American Massage Therapy Association, Washington Chapter.

Persons Signed In To Testify But Not Testifying: None.