SENATE BILL REPORT
SB 5254

As of February 4, 2025

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: Senators Orwall, Trudeau, Frame, Nobles, Valdez and Wilson, C..

Brief History:
Committee Activity: Health & Long-Term Care: 2/04/25.

Brief Summary of Bill

- Limits the fee a health care facility or vendor may change a patient or patient representative for providing the patient's health records to $50.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Greg Attanasio (786-7410)

Background: A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility must honor an authorization and, if requested, provide a copy of the health care records. A health care provider or health care facility may charge a reasonable fee for providing the records and is not required to honor an authorization until the fee is paid. An authorization must be in writing, dated, and signed by the patient.

Upon request of a patient or a patient's personal representative, a health care facility or health care provider shall provide the patient or representative with one copy of the patient's records free of charge if the patient is appealing the denial of federal supplemental security income or social security disability benefits. A health care facility or health care provider is

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not required to provide a patient or a patient's personal representative with a free copy of health care information that has previously been provided free of charge pursuant to a request within the preceding two years.

"Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed $0.65 per page for the first 30 pages and $0.50 per page for all other pages. A clerical fee for searching and handling may be charged not to exceed $15. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. Where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

Summary of Bill: A health care provider or health care facility, or a third party acting on behalf of a health care provider or health care facility, including any agent, vendor, or business associate, may not charge a fee of more than $50 for providing a patient's health care information to:

- the patient;
- the patient's representative;
- a licensed attorney who is representing the patient or the patient's estate;
- a health care provider or health care facility providing health care services to the patient;
- a community-based or system-based advocate designated by the patient; or
- the patient's guardian.

In all other instances, a health care provider or health care facility may charge a reasonable fee for providing health care information to a person and is not required to honor an authorization until the fee is paid.

An authorization to disclose health care information must be signed by the patient, the patient's personal representative, or any person or entity designated by the patient to receive the information.

The existing statutory definition of reasonable fee is removed and the Department of Social and Health Services must adopt rules to establish standards for a reasonable fee. The standards must recognize the prevalence of the use of electronic health record searching and exchange capabilities and consider federal laws related to the establishment of fees for accessing and exchanging health care information. The standards must be based upon the actual costs of searching and producing the particular patient's records and may not be based upon a per page calculation.

Appropriation: None.

Fiscal Note: Requested on January 22, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Protecting patients from excessive fees is important to those seeking justice. Entities can charge thousands of dollars for a third party to access records on behalf of the patient. This bill aligns the process with federal law. Patients should be able to access records electronically free of charge. The law is outdated by allowing a per page charge. Many other states have capped fees to obtain records.

CON: This bill is inconsistent with HIPAA and federal case law and shifts costs back to providers. Fulfilling requests can be expensive and is not a click of a button. $50 does not cover the cost of the labor. The cost of copying and redacting records is costly and time consuming. This bill will have a large impact on smaller providers. Patients have access to their own records, this bill is about lowering the cost for trial attorneys. Patients and their personal representatives pay a very low fee.

Persons Testifying: PRO: Senator Tina Orwall, Prime Sponsor; Elizabeth Hanley; Riddhi Mukhopadhyay, Sexual Violence Law Center; Daniel Hinkle, National Expert invited by the Washington State Association for Justice; Holly Brauchli, Washington State Association for Justice; Scott Edwards, Washington State Association for Justice; Marta O'Brien, Washington State Association for Justice.

CON: Kyle Probst, Datavant & AHIOS; Terri McDaniel, MultiCare Health System; Lisa Thatcher, Washington State Hospital Association; Leslie Emerick, Home Care Association of America -WA Ch (HCAOA-WA).

Persons Signed In To Testify But Not Testifying: No one.