

**1999 HOUSE HUMAN SERVICES**

**HB 1143**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1143

House Human Services Committee

Conference Committee

Hearing Date February 3, 1999

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 57.3
1		X	14.6 - 31.0
Committee Clerk Signature <i>Susan Lindteigen</i>			

Minutes:

Rep. DUANE DEKREY, District 14, testified this bill came about because of a personal experience that I had when I requested some medical records. I received two pieces of paper and a \$20.00 bill for the copies. We worked with people in the industry and we came up with the proposed amendment 90380.0102 (attached).

ARNOLD THOMAS, President, ND Health Care Association, testified this is not our bill and we're trying to make it a workable measure. Three handouts - one identifies goals and two will provide background on what surrounding states do. For those who like detail, one of the goals was to come up with one fee for duplication and a simple charge per page. The amendments are basically a hog house of the bill.

Rep. DALE HENEGAR stated I've had as many records transferred as anyone and never paid anything for them. ARNOLD THOMAS stated this bill does not set a charge on any medical

records that follow the patient in the continuity of care of that individual. This bill addresses only specific requests for outside of that service. However, if you're keeping a duplicate set of records at home for personal interest or involved in litigation, there would be a fee.

Rep. WANDA ROSE stated you're not going to charge another health care provider for obtaining the record if they are referred, but if I would request my own record, I'm going to be charged. Yet, I should have access to that without a charge because I'm the one who's actually going to implement the continuity of care. I'm the prime individual. So, why is the consumer charged? ARNOLD THOMAS stated the decision is based on the answer that you give when you place the request. If you indicate you're taking the records with you that constitutes a continuity of care provision. If there is a question, then another section of law determines policies and procedures relative to what is reasonable.

Rep. CLARA SUE PRICE asked is it up to the facility if they are going to charge the patient under this bill? ARNOLD THOMAS said that is correct. Rep. CLARA SUE PRICE asked currently, without this bill, it's still up to the facility? ARNOLD THOMAS said correct.

Rep. RALPH METCALF asked if one free copy is provided to persons who want to keep one at home? JOY KRUSH, St. Alexius, stated we provide a "pertinent report" for people who go south for the winter. Occasionally, people want their "complete" record, so we would probably charge because its many, many pages. Rep. RALPH METCALF asked can a patient get a copy of the record if he goes in today with a medical problem? JOY KRUSH said yes. Rep. RALPH METCALF asked is there a charge for a copy for themselves? JOY KRUSH stated at this point there is a charge if its for personal reasons.

Rep. RALPH METCALF asked on paragraph 2, who is doing the adjustment? ARNOLD

THOMAS stated there would have to be a publication relative to the index - urban price index which is successive.

Rep. SALLY SANDVIG asked about amendment 90380.0101 on the \$10.00 retrieval charge for patient x-rays, film, and is there a charge for that? Rep. CLARA SUE PRICE explained that amendment 90380.0101 is no longer being considered. ARNOLD THOMAS stated there is great variation on the price for magnetic reproduction. That's why the proposal before the committee is silent on x-rays.

Rep. WILLIAM DEVLIN asked if someone has power of attorney, do they pay? JOY KRUSH said its provided at no charge if its for continuing medical care.

Rep. WILLIAM DEVLIN asked about Section 2, does the facility charge \$20.00 for one page? ARNOLD THOMAS stated as the bill is written, yes. We attempted to come up with a fee that would eliminate all of the various add-ons. Basically, no revenue center, no expense center. We wanted to get away from the many cost variations, i.e., federal express, certified or not, warehouse, microfiche, one or two people working on it.

Rep. WANDA ROSE asked will the individual's wages be used as a basis for the price index? ARNOLD THOMAS said I don't understand the question. Rep. WANDA ROSE further explained the question. ARNOLD THOMAS stated I'm not familiar with the components in the price index. We attempted to minimize the need to return and argue for 2 and 3 cents per copy.

Rep. PAT GALVIN asked can a person go into the hospital and see all of their records? JOY KRUSH stated yes, but the original cannot leave the hospital or the clinic. The original x-rays are sent to other medical facilities because of the cost and the quality.



Rep. CHET POLLERT asked if I already pay a fee to go to the doctor, why can't I get that pertinent information free? I've paid an office fee. ARNOLD THOMAS stated you are correct.

Other kinds of requests that fall out of the support of direct medical care is when an additional expense is incurred. This is basically a formula that covers goals that we set out to achieve.

JOY KRUSH, St. Alexius, distributed a handout (attached) on the breakdown to duplicate medical records.

Rep. CAROL NIEMEIER asked how were the fees handled in the past? ARNOLD THOMAS stated the individual provider determined the cost. Rep. CAROL NIEMEIER asked is there a change in the fees that were charged as it relates to the bill. ARNOLD THOMAS stated larger facilities need to adjust their price downward to comply with the amounts in the bill under consideration.

AL WOLF, Wheeler Wolf Law Firm, Bismarck, testified (Testimony attached) with comments on the proposed amendments. Medical records play a large part in settling cases. Sometimes, the medical facility benefits from settlement if the medical bills have not been paid. We need to demonstrate the basis for the copy charges to the judge on insurance claim cases. The idea of free copies for their defense or medical care but there are also cases where there is shared care and continuum care. One of the objectives to this legislation would be to develop some uniformity that would be followed by each hospital. Rep. Watne asked me to address this problem.

TOM SMITH, Domestic Insurance Company, testified I am an attorney and get copies of medical records. This a real problem. One time it got so bad. We had a health care provider that we requested copies from and the amounts they were charging were reckless. So we subpoenaed

the medical records librarian. We got a court reporter to bring the records to our office and had someone copy them. It was cheaper doing it that way. Unfortunately, we had a grievance filed against us which was summarily dismissed. Insurance companies do need copies of records for an evaluation. This is a step in the right direction. Right now there is absolutely no criteria and nothing in the law that addresses it.

Rep. CLARA SUE PRICE asked what have you seen for the highest charge per page? TOM SMITH stated I've seen it as high as \$9.00 per page for two pages. A lot of providers have gone to arrangements with a copying services where they contract. Then there is a retrieval fee, flat fee, and so much per page, and postage.

Rep. TODD PORTER asked is this the answer to the problem? TOM SMITH stated I'm not sure what the answer is. There is nothing in the law now on what the hospital can charge. Rep. TODD PORTER stated in this provision it sets the expenses. By making it a reasonable cost, it leaves it to the discretion of the provider. Do you think this is a better tool? Explained personal business costs to get a copy of one page from Mandan (34 miles). How do you adjust for reasonableness when everyone's situation is different? TOM SMITH stated that's unusual circumstances if that's how you operate for one page; you're a little bit different than any other health care provider. Under the contractual copier services for which my clients have to pay, provide the service to the health care providers and they are not providing that service at cost. They're in the business to make money.

DAVID PESKE, ND Medical Association, testified we are not in favor of the bill as it was originally filed because of the first subsection which says the record must be made available to the patient. It raises issues that you already heard. The medical record original is the property of

the physician, the hospital, or provider. They must keep that on the premises. This may be interpreted that a patient can take that record off the premises to make a copy. As written, we would be opposed to the bill. We were invited to sit in with Arnold Thomas, hospital medical records people and had clinic managers to review the proposed amendments. They are comfortable with these amendments. They provide copies at no charge to patients, usually 6-8-10 requests per week, for continuity of care.

TODD KRANDA, Association of Health Information Out-Sourcing Services, testified we were one of the groups involved with Arnold Thomas on the amendments. We are not in favor of the bill as originally drafted but do support the amendments. We think there needs to be a reasonable approach to set some standards for copying costs.

#### OPPOSITION

DAN ULMER, Director, Government Relations, Blue Cross Blue Shield, testified I don't know if we're in opposition or where we are with the bill. We met on the amendments. Right now, we don't pay for claims processing. This bill doesn't have anything to do with electronic claims. If we must share paper on a questionable claim, the information is exchanged for free. It's a contractual issue. I don't know whether this bill goes into that or not. The other side of that is the insurance company should be responsible for it. But I don't know if we are or not.

Rep. TODD PORTER stated we get medical records to Medicare and Blue Cross Blue Shield pro bono in overnight mail so we can get paid. Why would any provider have a problem with that?

DAN ULMER stated that's my question.

Rep. DALE HENEGAR mentioned his situation with x-rays and lung surgery in St. Louis.

GALEN JORDRE, ND Pharmaceutical Association, testified that pharmacies are specifically mentioned in the bill. We have a question about what is really meant by a medical record. In pharmacies we have two aspects: (1) prescription from a practitioner, and (2) electronic record that maintains history of prescription. Routinely, pharmacies supply the printout of the medication history at no charge. If medical record is interpreted to include the original prescription, historically pharmacies are reluctant to release copies of those prescriptions directly to patients because you have a live document which could then be presented to another pharmacist for filling the prescription again. If someone moves, we have provisions for information from pharmacist to pharmacist of medication history to have continuity of care. The fee part is not a real concern to us.

Hearing closed.

Committee Discussion.

Rep. CLARA SUE PRICE discussed the pharmacy association stated they didn't need the amendment; Arnold Thomas amendment, and Albert Wolf proposed language.

Rep. DALE HENEGAR asked why is there a need? Rep. CLARA SUE PRICE explained there seems to be a problem with higher charges especially when there is a lawsuit. Rep. CHET POLLERT asked are we getting into the business of regulating hospital paperwork? Rep. CLARA SUE PRICE discussed putting a cap on charges for that paperwork. Rep. ROBIN WEISZ expressed agreement philosophically but asked how much is the cost?

Rep. ROBIN WEISZ moved to ADOPT AMENDMENT 90380.0102 and change subsection A, the last word "care" to "treatment" and delete number 2.

Rep. AMY KLINISKE second the motion.

Page 8

House Human Services Committee

Bill/Resolution Number HB 1143

Hearing Date February 3, 1999

VOICE VOTE: 15 yeas, 0 nays, 0 absent

Rep. PAT GALVIN moved DO PASS As AMENDED.

Rep. ROBIN WEISZ second the motion.

ROLL CALL VOTE #3: 9 yeas, 6 nays, 0 absent

CARRIER: Rep. ROBIN WEISZ

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1143

Page 1, line 3, after the second period insert "1."

Page 1, line 5, replace "The copying costs and administrative expense provisions of this" with  
"This"

Page 1, line 6, replace "apply" with "applies"

Page 1, replace lines 9 through 17 with:

- a. Provide a free copy of a patient's medical records requested for the purpose of continuing medical care.
  - b. Provide a copy of a patient's medical records requested for any other purpose for a maximum charge of twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five. This maximum charge includes any administrative fee, retrieval fee, postage expense, and certification expense.
  - c. Provide at a reasonable cost plus a maximum ten dollar retrieval charge a copy of a patient's x-ray film requested for any purpose.
2. The maximum charges under this section are in effect through December 31, 1999, after which the maximum charges are adjusted as of January first of each year to reflect changes in the most recent annual average of the north central urban consumer price index or a successor index."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1143

Page 1, line 3, after the second boldfaced period insert:

"1."

Page 1, line 4, replace "person" with "licensed individual or licensed facility" and remove ", including a hospital, physician, chiropractor,"

Page 1, line 5, remove "medical clinic, and pharmacy" and replace "The copying costs and administrative expense provisions of this" with "This"

Page 1, line 6, replace "apply" with "applies"

Page 1, replace lines 9 through 17 with:

- a. Provide a free copy of a patient's medical records to a medical provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's medical care to another medical provider for the continuation of medical care.
  - b. Provide a copy of a patient's medical records requested for any purpose other than the continuation of care for a maximum charge of twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five. This charge includes any administrative fee, retrieval fee, and postage expense.
2. The maximum charges under this section are in effect through December 31, 1999, after which the maximum charges are adjusted as of January first of each year to reflect changes in the most recent annual average of the north central urban consumer price index or a successor index."

Re-number accordingly

VK  
2/3/99

**HOUSE AMENDMENTS TO HOUSE BILL NO. 1143 HUMSER 2-4-99**

Page 1, line 4, replace "person" with "licensed individual or licensed facility" and remove ", including a hospital, physician, chiropractor,"

Page 1, line 5, remove "medical clinic, and pharmacy" and replace "The copying costs and administrative expense provisions of this" with "This"

Page 1, line 6, replace "apply" with "applies"

Page 1, replace lines 9 through 17 with:

- "1. Provide a free copy of a patient's medical records to a medical provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's medical care to another medical provider for the continuation of medical treatment.
2. Provide a copy of a patient's medical records requested for any purpose other than the continuation of care for a maximum charge of twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five. This charge includes any administrative fee, retrieval fee, and postage expense."

Renumber accordingly



Date: 2-3-99  
 Roll Call Vote #: 3

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1143

House Human Services Committee

Subcommittee on \_\_\_\_\_  
 or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Pat Galvin Seconded By Robin Weisz

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairman	X		Ralph Metcalf		X
William R. Devlin		X	Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose		X
Dale L. Henegar		X	Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert		X			
Todd Porter	X				
Blair Thoreson		X			

Total Yes 9 No 6  
 Absent 0

Floor Assignment Robin Weisz

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1143: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1143 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "person" with "licensed individual or licensed facility" and remove ", including a hospital, physician, chiropractor,"

Page 1, line 5, remove "medical clinic, and pharmacy" and replace "The copying costs and administrative expense provisions of this" with "This"

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2. Provide a copy of a patient's medical records requested for any purpose other than the continuation of care for a maximum charge of twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five. This charge includes any administrative fee, retrieval fee, and postage expense."

Renumber accordingly

**1999 SENATE HUMAN SERVICES**

**HB 1143**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1143

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 2, 1999

Tape Number	Side A	Side B	Meter #
1	X		4,470
1		X	4,615
Committee Clerk Signature <i>Carol Kaldyck</i>			

Minutes:

The hearing was opened on HB1143.

ARNOLD THOMAS, ND Health Care Association, supports bill. Representative DeKrey introduced bill in response to a situation that he personally experienced relative to requesting medical records and received an excessive bill for that request. He would like to shape the issue. We need a solution for pricing in retrieving medical records. No existing laws are changed concerning access to medical records; we wanted to supply a framework for all medical records copied. We wanted to minimize as much as possible a la carte pricing.

REPRESENTATIVE DUANE DEKREY, Sponsor of the bill, explained it's origin. SENATOR LEE asked if we were legislating prices? REP DEKREY stated that that was not the intent. Maybe you can come up with a way it can be done. There was a lady with a copy machine that contracted with a clinic and in 6 months she had already netted \$50,000. MR. THOMAS

continued comparing pricing of surrounding states. This bill does not include costs connected with ex-rays. They are very expensive and are not uniform. SENATOR FISCHER: Are all clinics charging for medical records? MR. THOMAS replied that your records are supplied and should not be charges. Second copies may or may not be charged. SENATOR FISCHER: If there are clinics that do not charge for records and if this bill passes, they may well charge for the copies. MR. THOMAS: That could likely be. SENATOR DEMERS: Who can copy records? MR. THOMAS: The intent was not to impede any transfer of medical information in support of the patient's care. It was only to have at home records. SENATOR THANE stated that the term medical provider is very broad. Has this been run by other providers? MR. THOMAS answered that it had not. They have not talked to chiropractors or optometrists. It should apply to all providers.

DAVE PESKE, ND Medical Association, is in support of the bill as written with amendments. Chapter 43-17 will cover copy of medical records.

PAULETTE SHAVER, Legal Ass't for Blinsky Law Firm, offered an amendment. In most instances medical releases are good for only 90 days. The policy means they must update medical releases and provide them to opposing counsel and often it is a real burden to our clients as well as the law firm. We would like to amend the bill with another provision for 3 years accessibility for legal processes and he would have the power to revoke that at any time.

SENATOR DEMERS asked if permissions were applied from this point backwards or for the future as well. MS. SHAVER: The request is for the time frame of the medical documents with regards to suits that we are looking back to. We need to know prior care, present care, and

Page 3

Senate Human Services Committee

Bill/Resolution Number HB1143

Hearing Date MARCH 2, 1999

continuing care is going to be throughout the course of the law suit. Mr. Blinsky drafted the amendment and was not presented to the House.

TODD KRANDA, attorney for Medical Health Providers of Medical Records, supports bill. We support the need formula for consistency in charging. We didn't know of the 90 days; have not had that problem. We have forms that contain the amount of time for which we need records.

SENATOR LEE commented on the power of attorney. MR. KRANDA commented that the entity may not have been included on a list with request.

Hearing on HB1143 was closed.

Discussion was resumed on 3/2/99 afternoon session. Mr. Wolf doesn't think 3 years is appropriate only need 3-6 months. SENATOR DEMERS moved the amendment. SENATOR LEE seconded it. Roll call vote passed 6-0-0. SENATOR DEMERS moved a DO PASS AS AMENDED. SENATOR LEE seconded it. Roll call vote carried 6-0-0. SENATOR KILZER will carry the bill.

Date: \_\_\_\_\_  
Roll Call Vote #: \_\_\_\_\_

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1143**

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendment

Motion Made By Sen DeMers Seconded By Sen Lee

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: \_\_\_\_\_  
Roll Call Vote #: 2

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1143**

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Sen DeMers Seconded By Sen Lee

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 4 (yes) 0 (no)

Absent 0

Floor Assignment Sen Kilzer

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1143, as engrossed: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1143 was placed on the Sixth order on the calendar.

Page 1, line 3, after the second boldfaced period insert:

"1."

Page 1, line 8, replace "1" with "a"

Page 1, line 12, replace "2" with "b"

Page 1, after line 16, insert:

"2. A written medical records release must be for a specific stated time, but not to exceed three years or until revoked in writing by the patient."

Renumber accordingly

**1999 TESTIMONY**

**HB 1143**

## GOALS

- EXISTING LAWS AND REGULATIONS GOVERNING PATIENT RECORD ACCESS ARE NOT CHANGED
- NO CHARGE FOR SUPPLYING PATIENT INFORMATION REQUESTED FOR CONTINUING MEDICAL CARE
- ESTABLISH A FRAMEWORK FOR SETTING REASONABLE COPYING COSTS OF MEDICAL RECORDS
- APPLY THE FRAMEWORK TO ALL REQUESTORS OF DUPLICATED RECORDS UNLESS EXEMPTED BY FEDERAL/STATE LAW
- MINIMIZE ALA' CART PRICING AS MUCH AS POSSIBLE
- LINK THE DUPLICATING COST INCREASES TO A REGIONAL CONSUMER PRICE INDEX

STATE	REQUESTOR TYPE	REGULATED SEARCH/ RETRIEVAL FEE	PER PAGE FEE	LEGAL REFERENCE
Minnesota	State Disability	\$35.00 max	None	State sets fees
	Workers' Comp— Payer	None	\$.75 (actual postage)	Dept. of Labor & Industry §5219.0300
	Workers' Comp— Attorney/Non-payer	\$10.00	\$.75 (actual postage)	Dept. of Labor & Industry §5219.0300
	Subpoena	\$11.91	\$.90 (actual postage)	Minnesota Statute §144.335 (8/1/92)*
	Attorney/Insurance/ Patient	\$11.91	\$.90 (actual postage)	Minnesota Statute §144.335 (8/1/92)*
	X-ray—Attorney/ Insurance/Patient	\$11.67	"Actual cost"	Minnesota Statute §144.335
Montana	State Disability	\$10.00 up to \$21.24	None	State sets fees
	All Requestor Types	Actual cost	Reasonable fee not to exceed actual cost	Health & Safety Code §50-16-526(2)
	Workers Comp— Insurance	None	None	Montana WC Medical Servic Rule 24,29.1513(5)
South Dakota	State Disability	\$10.70 (1-25 pp.); \$.50 26+ pp.; \$35.00 max		State sets fees
	Workers' Comp— Attorney	\$10.00	\$.50	SDWC Admin. Rule 47:03:05:09
	Workers' Comp— Insurance/Patient	First copy free; second requests \$10.00	First copy free; second requests \$.50	SDWC Admin. Rule 47:03:05:09

Comparative Analysis  
50 Page Medical Record

Minnesota: \$11.91 retrieval fee \$ .90 x 50 pages=\$45.00 + \$2.09 postage = \$59

Montana: Per attorney for the association reasonable charges defined as:  
\$15.00 administrative fee plus \$.50 per page  
Total cost of 50 pages x \$.50=\$25.00 + \$15.00 = \$40

South Dakota: \$16.00 retrieval fee (1<sup>st</sup> 10 pages) \$.16 over 10  
\$.16 x 40 = \$6.40 + \$16.00 (postage) +\$2.09 \$24.49  
(per hospital in Rapid City)

North Dakota: \$20.00 (1<sup>st</sup> 25 pages) \$.75 over 25 (maximum)  
(proposed) 25 x .75 = \$18.75 + \$20.00 = \$38.75

# N D H I M A

## HEALTH INFORMATION LEADERS

The following activities include an overview of steps required in the release of medical information:

- **Initial Process**
  - Review request to verify authorization is appropriate.
  - Verify patient identification against facilities master patient index. Determine dates of service the request of records is for.
  - Request additional information for requests that are not complete.
  - Obtain proper authorization if authorization does not meet guidelines.
- **Retrieval**
  - Locate record(s). Records can be in multiple locations depending on status of chart. Records can be on multiple media such as microfilm, microfiche, and optical.
  - Assure all documents requested have been completed and are on the chart.
- **Review**
  - Review record(s) for treatment relating to drug/alcohol and HIV. Records of this nature require additional authorization requirements. Review records for treatment relating to mental illness. Records of this nature, in most circumstances, require physician's authorization to release.
  - Identify appropriate reports that are being requested and tag to be copied.
- **Copy**
  - Disassemble record. Records are either on chart holders or stapled.
  - Copy requested pages. Forms that are flowsheets require one by one copying.
  - Review quality of copies.
  - Reassemble record.
  - Produce copies from various types of media.
  - Number pages on large charts to facilitate a recount if the copier jams.
  - Request may require faxing if of an urgent nature.
- **Log**
  - Log the request into a computer database or a manual log.
  - Record information being sent.
  - Record date and time information sent.
  - Stamp copies with "rerelease" statements, etc.
- **Invoice**
  - Prepare invoice/bill.
- **Mail**
  - Package record(s) for mailing.
  - Assure address is the most current.
- **Refile**
  - Refile the record(s) and/or media.

TESTIMONY BY ALBERT A. WOLF  
ON BEHALF OF  
NORTH DAKOTA TRIAL LAWYERS ASSN.  
BEFORE  
HOUSE COMMITTEE ON HUMAN SERVICES  
February 2, 1999

HB 1143

Relating to House Bill 1143

Chairman Price and members of the Committee.

My name is Al Wolf of Wheeler Wolf Law Firm, Bismarck, North Dakota, representing the North Dakota Trial Lawyers Association in support of House Bill 1143.

I believe some medical clinics and hospitals have established a fair and reasonable program for charging the costs of copying medical records for their patients. However, some have not established a procedure nor a fair program for asking reimbursement for the cost of copying their records.

It sometimes appears that a medical facility feels that there should be some significant profit margin built into their record copying services for patients. It should be noted that medical records are sometimes requested by attorneys representing the patients of the clinic or hospital but it is the patient that must bear the cost of copying those records. In many instances, some of the medical bills incurred by the patient are yet unpaid because there is not a source of reimbursement. In those cases, the records are being requested for purposes of

evaluating the injuries to determine if a claim should be considered to recover for the injury and the cost of the medicals.

When an accident is brought and the cost of providing medical records becomes an issue as to whether those costs can be allowed in the recovery process, it is the burden of the patient to show to the court that the charges were reasonable for the copying costs and what portion of the charges are not deemed reasonable will have to be absorbed by the patient even where there is a third party recovery.

I am not in a position to evaluate whether the specifics of this bill are to be in place or whether some mechanism for evaluating the charges should be applicable to various situations, but I do know that on many occasions we have received bills for copying of medical bills at a patient's request that were not at all related to the actual costs of copying for the copying machine, the paper and the time for copying by the employee. I do not believe copying records at a clinic or hospital should be complimentary, but it should also not be a source of additional revenue beyond the actual cost of copying.



FIRST ENGROSSMENT

Fifty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1143

Introduced by

Representative DeKrey

1 A BILL for an Act to provide for patient copies of medical records.

2 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

3 SECTION 1. Copies of medical records. As used in this section, "medical provider"  
4 means a licensed individual or licensed facility providing health care services. This section  
5 applies to every medical provider unless expressly provided otherwise by law. Upon the written  
6 request of a medical provider's patient or any person authorized by a patient, the medical  
7 provider shall:

- 8 1. Provide a free copy of a patient's medical records to a medical provider designated
- 9 by the patient or the person authorized by the patient if the records are requested
- 10 for the purpose of transferring that patient's medical care to another medical
- 11 provider for the continuation of medical treatment.
- 12 2. Provide a copy of a patient's medical records requested for any purpose other than
- 13 the continuation of care for a maximum charge of twenty dollars for the first
- 14 twenty-five pages and seventy-five cents per page for every page beyond
- 15 twenty-five. This charge includes any administrative fee, retrieval fee, and postage
- 16 expense.

( PROPOSED AMENDMENT )

- 3. Honor a written medical records release for a period of  
three years from its date unless the release <sup>states a shorter period or</sup> is prior to  
that time revoked in writing by the patient.

*Insert by Al Wolf  
NDTLA 3/2/99*

Fifty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1143

Introduced by

Representative DeKrey

1 A BILL for an Act to provide for patient copies of medical records.

2 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

3 SECTION 1. Copies of medical records. As used in this section, "medical provider"  
4 means a licensed individual or licensed facility providing health care services. This section  
5 applies to every medical provider unless expressly provided otherwise by law. Upon the written  
6 request of a medical provider's patient or any person authorized by a patient, the medical  
7 provider shall:

- 8 1. Provide a free copy of a patient's medical records to a medical provider designated  
9 by the patient or the person authorized by the patient if the records are requested  
10 for the purpose of transferring that patient's medical care to another medical  
11 provider for the continuation of medical treatment.
- 12 2. Provide a copy of a patient's medical records requested for any purpose other than  
13 the continuation of care for a maximum charge of twenty dollars for the first  
14 twenty-five pages and seventy-five cents per page for every page beyond  
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16 expense.

( PROPOSED AMENDMENT )

- 3. Honor a written medical records release for a period of  
three years from its date unless the release is prior to  
that time revoked in writing by the patient.

*a specific period of time up to  
states a shorter period*

*Amendment adopted*

*Honor a written medical records release for a for a specific stated time but not to exceed three years or until revoked in writing by patient*

*Insert by Al Wolf  
NDTLA 3/2/99*

PROPOSED AMENDMENT TO HOUSE BILL NO. 1143

Ladies and Gentlemen of the Senate Human Services Committee, attached please find a proposed amendment to House Bill No. 1143.

I have been a legal assistant in the Bolinske Law Firm for the past six years. I am making the proposed amendment to remedy a problem every law firm encounters when trying to obtain copies of their own client's/patient's medical records, at the request of the client/patient, via a signed medical authorization.

When our clients sign authorizations to release their medical records for the purposes of resolving their own suits, those medical authorizations are usually effective for no more than a 90-day period.

The 90-day policy creates a totally unnecessary inconvenience to everyone concerned, especially considering that lawsuits often remain unresolved for several years. Clients are required to continue providing us with updated medical authorizations every 3 months over the course of several years, even though the authorizations are usually directed to the same medical facility or caregiver.

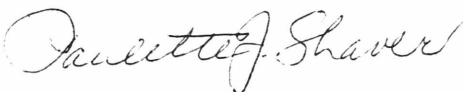
When the clients are elderly people and the authorization requires a notarization of their signatures it especially becomes a burden for them to do that every 90 days.

The 90-day policy comes in the way of the client/patient's own wishes. We often have clients inquire as to why it is necessary to keep coming in to sign these authorizations, once they have given us and opposing counsel the right to obtain and view all medical records. They wonder why anyone should be able to restrict their right to have their records viewed as they have authorized. We have to explain that we are dealing with a policy that doesn't make much sense, but it is a policy.

House Bill No. 1143 provides a vehicle in which to honor a medical records release for a period of three years from the date the patient has signed it, and at the same time allows the patient/client to revoke that authorization at any point in that three year period.

I urge you to amend House Bill No. 1143 to include the attached proposed amendment and thank you for your consideration in that regard.

Sincerely,



Paulette J. Shaver  
Legal Assistant

Bolinske Law Firm, 515 North 4th Street, Bismarck ND (701-222-2035)

**FIRST ENGROSSMENT**

Fifty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1143**

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