

1 S.1

2 Introduced by Senator Sears of Bennington District

3 Referred to Committee on

4 Date:

5 Subject: Health; health care administration; medical records

6 Statement of purpose: This bill proposes to provide individuals with the right
7 to receive copies of their health care records. It would also allow spouses and
8 other family members to access a deceased patient's medical records without
9 first requiring appointment as an executor or administrator of the decedent's
10 estate.

11 AN ACT RELATING TO ACCESS TO MEDICAL RECORDS BY A
12 DECEDENT'S SPOUSE

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 18 V.S.A. § 9419 is amended to read:

15 § 9419. ~~CHARGES FOR ACCESS TO MEDICAL RECORDS;~~ CHARGES

16 (a) If an individual requests copies of his or her own health care record
17 from a custodian, the copies shall be made available to the individual within 15
18 calendar days after the date of the request.

19 ~~(a)~~(b) A custodian may impose a charge that is no more than a flat \$5.00
20 fee or no more than \$0.50 per page, whichever is greater, for providing copies

1 of an individual's health care record. A custodian shall provide an individual
2 or the authorized recipient with an itemized bill for the charges assessed. A
3 custodian shall not charge for providing copies of any health care record
4 requested to support a claim or an appeal under any provision of the Social
5 Security Act or for any other federal or state needs-based benefit or program.

6 ~~(b)~~(c) A custodian may charge an individual a fee, reasonably related to the
7 associated costs, for providing copies of x-rays, films, models, disks, tapes, or
8 other health care record information maintained in other formats.

9 ~~(e)~~(d) As used in this section:

10 (1) "Custodian" means any person who maintains health care
11 information for any lawful purpose, including a health care provider, a health
12 care facility, or a health insurer.

13 (2) "Health care provider" means a person, partnership, or corporation,
14 other than a facility or institution, licensed or certified or authorized by law to
15 provide professional health care service in this state to an individual during
16 that individual's medical care, treatment, or confinement.

17 ~~(2)~~(3) "Health care record" means all written and recorded health care
18 information about an individual maintained by a custodian.

19 ~~(3)~~(4) "Individual" means a natural person, alive or dead, who is the
20 subject of health care information and also includes, when appropriate, ~~the~~

1 ~~individual's attorney in fact, legal guardian, health care agent, as defined in 18~~
2 ~~V.S.A. chapter 111, executor or administrator;~~

3 (A) an agent under the individual's power of attorney, as defined in
4 section 3501 of Title 14;

5 (B) the individual's legal guardian;

6 (C) an agent under the individual's advance directive, as defined in
7 section 9701 of this title;

8 (D) if the individual is deceased, the executor or administrator of the
9 decedent's estate; and

10 (E) if the individual is deceased and no executor or administrator has
11 been appointed, the decedent's next of kin in the following order of priority:

12 (i) the decedent's surviving spouse, civil union partner, or
13 reciprocal beneficiary, as defined in section 1302 of Title 15;

14 (ii) an adult child of the decedent;

15 (iii) either parent of the decedent;

16 (iv) an adult sibling of the decedent;

17 (v) a grandparent of the decedent; and

18 (vi) a legal guardian of the decedent at the time of death.