

**TESTIMONY OF THE MAINE MEDICAL ASSOCIATION**  
**IN OPPOSITION TO**  
**L.D. 23, AN ACT TO LOWER THE COST OF COPIES OF MEDICAL**  
**RECORDS**

Joint Standing Committee on Health & Human Services  
Room 209, Cross State Office Building  
Thursday, February 7, 2013, 1:00 p.m.

Good afternoon Senator Craven, Representative Farnsworth, and Members of the Joint Standing Committee on Health & Human Services. I am Gordon Smith, Executive Vice President of the Maine Medical Association (MMA), and I am speaking in opposition to L.D. 23, *An Act To Lower the Cost of Copies of Medical Records*.

The MMA is a professional association representing more than 3800 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens.

The MMA respectfully objects to this bill, submitted by our good friend Senator Haskell, because the upper limit of charges for medical record copies in current law (\$10 for the first page and \$0.35 for each additional page), established by the 121<sup>st</sup> Legislature in 2003, is not unreasonable compensation for a physician practice's administrative and material costs incurred in copying medical records. Maine's charge limit, in fact, is low compared to the charges permitted in many other states, some of which include an

automatic annual inflation adjustment and we would urge the Committee to consider adding such an annual inflation adjustment to our statutes.

As a threshold matter, I would like to make the point that most physician practices, based upon the ethical obligation to ensure continuity of care for the patient, **DO NOT** charge patients for copying medical records for clinical reasons. For example, they do not typically charge for copying a medical record when a patient transfers from one primary care practice to another because of a family's geographic move. On the other hand, we believe it is appropriate for physician practices to charge a reasonable, cost-based fee for copying medical records for other purposes, most commonly for the support of litigation involving the patient or life or disability insurance applications or claims. Medical record copying costs are modest compared with other litigation costs, such as attorneys' fees, expert witness fees, private investigator or other consultant fees, and court costs.

#### The Legislative History of Maine's Current Upper Limit

Between 1989 and 2003, Maine's statutes provided that copying costs could "not exceed the reasonable costs incurred by the health care practitioner in making and providing the copies or the report." The 121<sup>st</sup> Legislature enacted a bill sponsored by then Representative Janet Mills adding a sentence establishing an upper limit of \$10 for the first page and \$0.35 for each additional page. In this bill, the Health & Human Services Committee adopted the Maine Workers' Compensation Board standard for medical record copying charges. WCB Rule Chapter 5, §1.07(2) maintains this standard today.

While most states now have statutory upper limits on medical record charges, physician practices have long-standing ethical guidance on this subject. This guidance is found in the AMA Code of Medical Ethics Opinion 7.02, *Records of Physicians:*

*Information and Patients* that states:

Notes made in treating a patient are primarily for the physician's own use and constitute his or her personal property. However, on request of the patient, a physician should provide a copy or a summary of the record to the patient or to another physician, an attorney, or other person designated by the patient.

Most states have enacted statutes that authorize patient access to medical records. These statutes vary in scope and mechanism for permitting patients to review or copy medical records. Access to mental health records, particularly, may be limited by statute or regulation. A physician should become familiar with the applicable laws, rules, or regulations on patient access to medical records.

The record is a confidential document involving the patient-physician relationship and should not be communicated to a third party without the patient's prior consent, unless required by law or to protect the welfare of the individual or the community. Medical reports should not be withheld because of an unpaid bill for medical services. *Physicians may charge a reasonable fee for copying medical records.* (emphasis supplied) Issued prior to April 1977; Updated June 1994

#### Comparison with other States

The following information is drawn from an email survey of state medical society counsel that is several years old. While it is somewhat dated, it does provide credible data against which you might evaluate the reasonableness of Maine's current limits on charges for copying medical records.

#### New England states:

- MA: \$15 base fee per transaction; \$0.50/page for pages 1 – 100; \$0.25/page for pages 101+; postage may be added; includes annual inflation adjustment
- VT: \$0.50/page or \$5.00 whichever is greater
- CT: \$0.65/page plus the reasonable cost of copying other material, such as films

- NH: may not charge the patient for clinical reasons; \$15 for first 30 pages or \$0.50/page, whichever is greater; reasonable charge for films
- RI: \$15 retrieval fee; \$0.25/page for the first 100 pages; \$0.10/page for pages 101+; \$10 special handling fee permitted if request must be fulfilled within 48 hours of request.

Other states:

- NE: \$20 administrative fee; \$0.50/page
- MO: \$20.02 administrative fee; \$0.47/page
- MD: \$22.18 administrative fee; \$0.73/page plus shipping and handling; adjusted for inflation annually
- KS: \$17.50 for supplies and labor; \$0.58/page for pages 1 – 250; \$0.41 for pages 251+
- NY: reasonable charge, not to exceed \$0.75/page
- OR: no more than \$30 for 10 or fewer pages; \$0.50/page for pages 11 – 50; \$0.25/page for pages 51+; may add postage; \$5 bonus for mailing within 7 days of request
- MI: \$1/page for pages 1 – 20; \$0.50/page for pages 21 – 50; \$0.20 for pages 51+; may charge actual cost for records in other media; may add postage or shipping; if records are 7 years old or older and are stored off site, may charge actual retrieval costs; document management companies may charge initial \$20 fee
- VA: \$0.50/page for pages 1 – 50; \$0.25/page for pages 51+; may add postage or shipping
- MN: may not charge patient for clinical reasons; \$10 retrieval fee; \$0.75/page with annual inflation adjustment on both; for 2008, rates were \$15.44 and \$1.18/page
- TN: \$20 for 40 pages or fewer; \$0.25/page for pages 41+; postage may be added
- KY: must provide initial copy to patient free; \$1/page for others

- SC: \$0.65/page for pages 1 – 30; \$0.50/page for pages 31+; may charge clerical fee of \$15 plus postage and sales tax; may charge actual cost of film
- FL: \$1/page for pages 1 – 25; \$0.25/page for pages 26+; may charge actual cost of film
- AR: \$0.50/page for pages 1 – 25; \$0.25/page for pages 26+; may charge \$15 labor fee plus postage
- GA: may charge \$20 administrative fee; \$0.75/page for pages 1 – 20; \$0.65/page for pages 21 – 100; \$0.50/page for pages 101+; may charge actual cost for films; includes annual inflation adjustment

Thank you for considering the MMA's perspective on L.D. 23 and I respectfully ask you to reject it. I would be happy to respond to any questions you may have.