



Senate of Pennsylvania

May 11, 2012

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**TO:** ALL SENATORS  
**FROM:** Stewart J. Greenleaf *Stewart*  
**SUBJECT:** Cosponsorship – **Medical records**

Sections 6151 through 6160 of the Judicial Code are known collectively as the Medical Records Act (MRA). Section 6152 provides for the rates charged for copying medical records when a subpoena is served upon a health care provider or a health care facility. Currently the health care provider or facility must respond within three days with notice that the provider or facility is proceeding under the MRA and with “the estimated actual and reasonable expenses of reproducing the charts and records.” My legislation removes the requirement to provide “the estimated actual and reasonable expenses” because an estimate of the actual expenses cannot be determined until the correct records are identified and a page count is performed. This process generally takes longer than three days. Records responsive to a single request may reside in several different systems.

Perhaps more importantly, in addition to requiring the health care provider or facility to provide an estimate, section 6152 also provides a very specific schedule of rates for copying medical records. The estimated expenses for copying the records may easily conflict with the amount eventually charged using the schedule of rates. Is the health care provider or facility tied to the estimate if it turns out the schedule of rates results in a higher amount? The Superior Court discussed this ambiguity in Wayne M. Chiurazzi Law Inc. v. MRO Corporation, 27 A.3d 1272 (Pa. Super., 2011) and strongly suggested that the legislature address the issue. By removing the requirement to provide an estimate of the actual and reasonable expenses and using the schedule of rates exclusively, there should not be any question about the applicable fees. The legislation updates the schedule of rates to the rates actually in effect for 2012.

Section 6152 is also amended to reference HIPAA to make it clear that the schedule of rates applies to requests by subpoena or authorized through HIPAA. The MRA was enacted prior to HIPAA and my legislation specifies that the rates in section 6152 apply to both types of requests. In addition, a clause is added recognizing the fact that since the MRA was written new electronic systems have been put in place for storing records and for delivering copies of records and the schedule of rates applies regardless of the medium.

*If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at [psnively@pasen.gov](mailto:psnively@pasen.gov).*