

September 1, 2005

Re: Statutory Amendments

As some of you may know, certain hospitals, doctors and clinics have utilized third parties to assist in the compilation of medical records in response to requests for records. These third parties are only utilized when the request for records comes without a subpoena. This occurs when the request for records is made prior to litigation and the request is accompanied by an authorization from the patient. When these third parties are utilized, the charges for obtaining the records includes handling fees, copying fees and cost at least \$1 per page.

The use of these companies has led to large amounts of money being expended by insurance carriers to obtain medical records to investigate claims. The Illinois Code of Civil Procedure governs the amount that can be charged to obtain medical records from hospitals and doctors. Unfortunately, the Code contains a loophole that essentially excludes anyone that is requesting records pursuant to an authorization unless the person requesting the records is the patient or the patient's attorney. These companies justify their excessive charges by citing to this loophole.

In an effort to eliminate this loophole, my partner, Ed Grassé recently proposed an amendment to the Code of Civil Procedure through the Illinois Legislature. The proposal was made in his capacity as Vice Chairman of the Chicago Bar Association's Civil Practice Committee. This amendment was recently signed into law by the Governor of Illinois. Effective July 8, 2005, the amended statute reads as follows:

Every private and public health care facility shall, upon the request of any patient who has been treated in such health care facility, **or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative**, permit the patient, his or her physician, authorized attorney, **or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative** to examine the health care facility patient care records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her physician or authorized attorney. A request for copies of the records shall be in writing and shall be delivered to the administrator or manager of such health care facility. The health care facility shall be reimbursed by the

person requesting copies of records at the time of such copying for all reasonable expenses, including the costs of independent copy service companies, incurred by the health care facility in connection with such copying not to exceed a \$20 handling charge for processing the request for copies, and 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed \$1.25 per page for any copies made from microfiche or microfilm), and actual shipping costs. These rates shall be automatically adjusted as set forth in Section 8-2006. The health care facility may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures. The requirements of this Section shall be satisfied within 30 days of the receipt of a written request by a patient or by his or her legally authorized representative, physician, authorized attorney, **or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative.**

The amended statute now allows any person, entity or organization presenting a valid authorization signed by the patient or representative to obtain the benefits of the legislatively enacted cost structure for obtaining records. This amendment to the Illinois Code of Civil Procedure could easily save Illinois insurance carriers hundreds of thousands, if not millions of dollars over the coming years. I hope that this change will allow your company to share in these savings.

If you have had any experience in dealing with these third party records producers, I am relatively certain that this amendment will come as a welcome change in your dealings with them. If you have any questions about this statute or how it may affect your company, please contact the undersigned or Ed Grassé to discuss it further.

Very truly yours,

C. William Busse, Jr.