

Workers' Compensation Advisory Council  
March 28, 2023 Meeting

**RE: Minnesota Association of Justice Proposal #2 related to Reducing Medical Record Costs**

I am the deputy general counsel and director of government relations for Ciox Health, LLC. I provide this written testimony to **OPPOSE** the proposal to reduce the fee for medical records under MN. Stat 176.136 to a flat fee of \$10.

Ciox is a release of information company providing release of health information services in all 50 states for over 3,000 of the country's largest hospitals and over 18,000 medical providers generally. Personally, I have worked in the industry for 10 plus years and negotiated portions of the electronic medical record fee schedules for 14 of the 18 states that have fee schedules in statute or regulation.

Interestingly, South Dakota just adopted legislation establishing an \$18 search and handling fee plus \$0.25 per page for electronic records. I'm not suggesting that Minnesota should adopt the South Dakota rates but what I am suggesting is that these fees were acceptable in the state of South Dakota while the Minnesota Association for Justice would reduce the fees to a mere \$10.

Before describing the release of health information process it should be noted that patient fees are governed by HIPAA while third-party requester fees are governed by state law. The fees in your current law are not charged to patients requesting their own records. Patients are entitled to their entire file with limited exception so there is no required page by page review and HIPAA encourages patients to request their own records so the fee is therefore limited. These requests are necessary for pursuing workers compensation claims but they do place an administrative and financial burden on healthcare providers who are trying to focus on their core competency of providing health care. This is why health care providers engage a release of health information vendor.

Release of health information process is commonly misunderstood, especially by medical record requesters. They tend to believe that electronic records are as easy to disclose as pushing a button. This couldn't be further from the truth. In reality, highly trained release of information specialists must validate the request letter, HIPAA authorization, subpoena, court order, power of attorney document, or whatever other documents we receive before we even locate the subject record. Next, we have to identify the patient in the patient master index software to retrieve a unique patient index number. We use that patient index number to locate the subject records in the electronic health record software.



We then begin reviewing the records to identify the records requested and authorized by the patient to be disclosed to a third-party. If we identify highly sensitive information in the file we confirm if the highly sensitive information is authorized for release on the HIPAA authorization form. This tedious work requires page by page review, hence the per page fee even for electronic records.

As we work our way through the electronic medical record we convert the acceptable records for disclosure into a universally readable and searchable PDF format for secure delivery through our secure internet portal.

Minnesota is not the first state to hear a proposal to lower fees for the disclosure of medical records and it won't be the last. However, there is a reasonable compromise to be had but our request at this time is to reject this proposal from the Association for Justice and encourage the parties to work together towards a compromise. When dealing with an entire industry's fee structure those most affected should be able to participate in the discussion about the appropriate fee for their work.

Thank you for considering this testimony and rejecting the Association for Justice's Proposal #2 to reduce medical record costs.

I can be reached for further information at [kyle.probst@cioxhealth.com](mailto:kyle.probst@cioxhealth.com)

Respectfully submitted,

Kyle Probst  
Deputy General Counsel and Director of Government Relations  
Ciox Health, LLC

