AN ACT concerning public health and welfare; relating to healthcare data; requiring healthcare providers to charge the same amount for medical records requests related to a patient's social security disability, workers compensation, medical malpractice or personal injury claims whether requested by a patient or a patient's legal representative; amending K.S.A. 65-6821 and 65-6836 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-6821 is hereby amended to read as follows: 65-6821. K.S.A. 65-6821 through 65-6834 and 65-6835, 65-6836, and amendments thereto, shall be known and may be cited as the Kansas health information technology act.

Sec. 2. K.S.A. 65-6836 is hereby amended to read as follows: 65-6836. (a) As used in this section:

1. "Health care provider" means any person licensed by the state board of healing arts.

2. "Authorized representative" means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

3. "Authorization" means a written or printed document signed by a patient or a patient's authorized representative containing:

   (A) A description of the healthcare records a healthcare provider is authorized to produce;

   (B) the patient's name, address and date of birth;

   (C) a designation of the person or entity authorized to obtain copies of the healthcare records;

   (D) a date or event upon which the force of the authorization shall expire which shall not exceed one year;

   (E) if signed by a patient's authorized representative, the authorized representative's name, address, telephone number and relationship or capacity to the patient; and

   (F) a statement setting forth the right of the person signing the authorization to revoke it in writing.

(b) Subject to K.S.A. 65-6824, and amendments thereto, except as otherwise provided herein, copies of healthcare records shall
be furnished to a patient, a patient's authorized representative or any other
person or entity authorized by law to obtain or reproduce such records,
within 30 days of the receipt of the authorization, or the health care
provider shall notify the patient or the patient's authorized
representative of the reasons why copies are not available. A health care
provider may withhold copies of health care records
if the health care provider reasonably believes that providing
copies of the requested records will cause substantial harm to the patient or
another person. Health care providers may condition the
furnishing of the patient's health care records to the patient, the
patient's authorized representative or any other person or entity authorized
by law to obtain or reproduce such records, upon the payment of charges
not to exceed those established and updated not less than every two years
by rules and regulations adopted by the state board of healing arts. In
establishing such charges, the board shall consider changes in the all-items
consumer price index published by the United States department of labor.
Providers may charge for the reasonable cost of all duplications of health
care record information which cannot be routinely duplicated
on a standard photocopy machine.

(c) Any health care provider, patient, authorized
representative or any other entity authorized by law to obtain or reproduce
such records may bring a claim or action to enforce the provisions of this
section. The petition shall include an averment that the party bringing the
action has in good faith conferred or attempted to confer with the other
party concerning the matter in dispute without court action. Upon a
showing that the failure to comply with this section was without just cause
or excuse, the court shall award the costs of the action and order the
records produced without cost or expense to the prevailing party.

(d) Nothing in this section shall be construed to prohibit the state
board of healing arts from adopting and enforcing rules and regulations not
inconsistent with this section that require licensees of the board to furnish
health care records to patients or to their authorized
representative. To the extent that the board determines that an
administrative disciplinary remedy is appropriate for violation of such
rules and regulations, that remedy is separate from and in addition to the
provisions of this section.

(e) Healthcare providers shall not charge a fee for medical records
requested by the authorized representative of a patient or former patient
that is greater than the amount the healthcare provider would charge the
patient or former patient if such records were requested personally
pursuant to public law 111-5 § 13405 if such records request is related to a
claim for social security disability, workers compensation, medical
malpractice or personal injury.
Sec. 3. K.S.A. 65-6821 and 65-6836 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.