



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Senate Committee on Judiciary & Labor
Assembly Bill 759 Testimony
February 27, 2014

First of all, I would like to thank you, Chairman Ott and committee members, for allowing me to testify on AB 759.

This bill relates to medical records of individuals represented by the Office of the State Public Defender. In its representation of indigent clients, it is quite common for attorneys of the State Public Defender to request medical records.

The medical records statute enables any patient or person authorized by the patient to obtain copies of medical records. It also provides that records can be obtained at a reduced charge if the patient is eligible for medical assistance.

Although clients of the State Public Defender are by definition Medical Assistance eligible, some record providers have refused to give the State Public Defender the lower rate. That situation requires the State Public Defender either to pay the higher rate or to ask clients to request the records and transmit them directly to the State Public Defender.

It is common for these clients to have unstable living situations and other challenges that make it more difficult for them to request, receive and deliver these records to the attorney. As a result, unnecessary delays can impede the work of the State Public Defender in its representation of these clients.

AB 759 changes the law to clarify that a “person authorized by the patient” under the medical records statute includes an attorney provided by the State Public Defender.

That simple change enables the State Public Defender to obtain medical records in a more timely and cost effective manner. The Fiscal Bureau projects savings of \$6,000 to \$10,000. The amount is not great, but it nevertheless represents a savings.

Thanks for giving me the opportunity to testify. I would be happy to address any questions you might have.



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February 27, 2014

Chairman Jim Ott
Assembly Committee on Judiciary
P.O. Box 8953
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Dear Chairman and members,

Thank you for having this hearing on Assembly Bill 759, which will improve the process for Public Defender attorneys to access the medical records of our clients, with their informed consent.

When the State Public Defender represents indigent clients, attorneys request evaluations of client treatment, medical, educational, vocational or other needs. Medical records are often a necessary part of the client's assessment, both to understanding the client's mental status and to assist in developing treatment proposals. To have informed discussions with the client and to advocate effectively with the prosecutor and the judge, the public defender often needs to acquire client medical records, in full or in part.

2009 Wisconsin Act 28 changed the medical record access statute (s. 146.83) to create a fee schedule for copies of medical records. A "person authorized by the patient" was exempt from certain fees and, if the patient is eligible for Medical Assistance, qualifies for reduced fees. Although SPD clients, by reason of their financial status, are Medical Assistance eligible, records providers are charging the SPD the higher statutory rates because a patient's SPD-appointed attorney does not fall within the precise definition of "person authorized by the patient."

In an attempt to mitigate the cost to the SPD and taxpayers, the SPD has asked clients to submit the health records requests directly. This approach created a separate set of problems, including delays getting records in a timely manner, providers requiring pre-payment for the records from indigent defendants, and getting the records from the client to the attorney. These problems are compounded by factors common to SPD clients such as unstable living conditions and lack of access to transportation or a telephone.

In summary, since 2009 Act 28 took effect, the SPD has been faced with a choice of either paying higher fees than necessary or using a process to obtain records that is inefficient and unreliable. Inefficiencies can take the form of SPD attorneys spending more time than necessary to obtain the records and can even result in delayed court dates.

Assembly Bill 759 provides a simple fix to this problem by clarifying that an attorney provided by the SPD is a "person authorized by the patient" to obtain medical records. This amendment is most significantly a process improvement, but also results in a fiscal savings to the state.

Sincerely,


Kelli Thompson
State Public Defender