



**Testimony Before the
Senate Committee on Human Services regarding SB 275
Presented by Debra Patten
on behalf of the Oregon Medical Association
February 13, 2017**

Chair Gelser, Vice-Chair Olsen and Members of the committee, thank you for allowing me to testify today. My name is Debra Patten and I am the clinic manager at East Portland Neurology. We are three-physician, single specialty medical group.

SB 275, with coming amendments, will clarify existing law, enacted in 2015, that was intended to assist patients in accessing one free copy of their medical records for the purposes of appealing a social security disability denial. Our clinic is supportive of the law's intent, in that it was intended to ensure our patient or their personal representative, could obtain one free copy of their record. To better achieve this desired outcome for our patients, we need additional clarity in the language of the law; as written, it has allowed other individuals to take advantage of the records process and meant that our staff has been impacted by the unintended consequences of this bill.

Our clinic policy is to provide patients access to their records at no cost and we are fully supportive of our patient's right to access their records. Since the passage of SB 710, we have seen an increase in the number of records requested by attorneys, claiming to represent the patient, without proof or authorization from the patient. As the owners of the information, we are obligated to validate any records release or we could be in violation of HIPAA. A HIPAA violation can result in fines from the Office of Civil Rights. We have a clearly established medical records process that is followed by staff to ensure we are in compliance.

We have been harassed by disability attorneys who "demand" records immediately, request all records, make false accusations and threaten "punitive" actions when their demand is not met. Due to the lack of clarity in SB 710, our offices often end up at odds with each other, as each interprets the bill differently. As a result, we have had to establish a clinic policy for this type of records request; we do comply with the records request (after verifying it with our patient) and send the records directly to the patient. Due to the lack of definition in the bill about which records are likely necessary for an appeals, this can mean my staff is preparing large record requests, which translates to additional staff FTE. On average, medical record requests for disability appeals take between 30 and 65 minutes to process (detailed table below) and "cost" the clinic in employee time, between \$39 and \$96.

As the clinic manager, I've taken a number of these calls directly; I recently had an attorney ask for our clinic attorney and after sharing that we didn't have an on-staff attorney, was told that she "was going to have to see what to do about our clinic". This is not a comfortable place for

anyone to be in and takes away from the patient care we want to be providing. I've also been harassed about how to interpret personal representative; we have received form letters from many attorney offices that rely on their authority as the "legal representative" and cannot use that in health care, where personal representative is defined under Federal law.

I want to reiterate that we support our patients in their endeavor to obtain social security disability benefits and fully support clarification of this law. We ask that our clinic's records request process and costs (staff time) not be disregarded or dismissed. If the intent of SB 710 is respected and the law clarified, all parties will benefit and the patient can be assured they will meet the appeals requirements.

I would like to thank you once again for the opportunity to address the committee regarding this very important topic and I'm happy to answer any questions.

East Portland Neurology Clinic Record Release Steps

Record process steps	Average time in minutes	Cost (FTE equivalent)
1. Review attorney/medical record request	5	
2. Review and print chart for records to send	5	
3. Billing invoice preparation/prepayment request faxing	5	
4. Chart documentation in EMR	5	
5. Final payment processing and faxing of records	5	
6. Final scan/filing in to the chart	5	
Total	30	\$39
7. For SB 710 requests, calls to attorney and patient to verify request	10 (minimum)	\$52
8. Prepare and mail free copy to patient.	5	
Total	45	\$58.50
*If manager involvement is required, repeat items 1, 2 and 7	20 (minimum)	+\$37.50
Total	65	\$96

The Oregon Medical Association serves and supports over 8,200 physicians, physician assistants and student members in their efforts to improve the health of all Oregonians. Additional information can be found at www.theOMA.org.