



NEW YORK
CITY BAR

**COMMITTEE ON
SOCIAL WELFARE LAW**

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September 10, 2017

Hon. Andrew M. Cuomo
Governor
State Capitol
Executive Chamber
Albany, New York 12224

Re: Support for Legislation to Ensure Medical Records Access for Low-Income Disabled Individuals - A.7842 (AM Gottfried) / S.6078 (Sen. Valesky)

Dear Governor Cuomo:

The Social Welfare Law Committee of the New York City Bar Association¹ (the “City Bar”) supports and urges you to sign into law A.7842 (AM Gottfried)/S.6078 (Sen. Valesky), which passed both houses with overwhelming bipartisan support. The legislation would help disabled New Yorkers obtain their own medical records when applying for government benefits and programs. It prohibits providers and facilities from charging fees for copies of records when records are needed to support an application for a government benefit program.

As an association of lawyers, we take very seriously our role in helping to remove barriers that low income New Yorkers face in trying to access the benefits they are lawfully entitled to receive. Disabled New Yorkers need access to their medical records in applying for Social Security disability benefits (including Supplemental Security Income or SSI), other means-tested benefits, and veteran’s benefits. Current public health and mental hygiene law² already prohibits charging for access to medical records for those who cannot afford to pay. However, disregard of the fee waiver provision, the difficult process of establishing eligibility for the waiver, and providers’ use of outside copying services have prevented eligible low

¹ This letter draws in part from model comments issued by the Empire Justice Center, New York Legal Assistance Group (NYLAG) and Urban Justice Center and “Session Wrap 2017: New Legislation to Enforce Medical Records Access Rules” (Catherine M. Callery and Louise M. Tarantino, Empire Justice Center, July 31, 2017, available at <http://www.empirejustice.org/policy-advocacy/legislative-updates/session-wrap-2017-medrecs.html?referrer=https://www.google.com/#.WbLc1fOGMdU>).

² Public Health Law §§ 17, 18, as amended by chapter 576 of the laws of 1998, and Mental Hygiene Law § 33.16, as amended by chapter 165 of the laws of 1991 and as renumbered by chapter 233 of the laws of 1991.

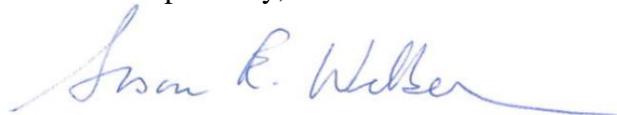
income New Yorkers from receiving free access to their own medical records. As a result, disabled claimants who are not able to pay for copies of their own medical records cannot obtain access to the evidence necessary to support their claims for government benefits.

Without sufficient medical evidence, applications for federal and other government benefits get denied. People who desperately need the financial support experience a decline in their health and destabilization of their financial position. This can result in medical costs and a loss of housing and homelessness. Individuals who might otherwise be eligible for federal benefits rely on State public benefits, such as the Cash Assistance program, and the shelter system, which places an unnecessary financial burden on New York State and local counties.

The proposed legislation lifts the major impediment to obtaining the medical evidence necessary for a successful claim for federal and other government benefits. The bill amends sections of the public health and mental hygiene laws, providing for the elimination of all fees “for providing, releasing, or delivering medical records or copies of medical records where requested for the purpose of supporting an applicant, claim or appeal for any government benefit or program, provided that, where a provider maintains medical records in electronic form, it shall provide the copy in either electronic or paper form, as required by the government benefit or program, or at the patient’s request.”

By ensuring access to medical records for all who apply for government benefits or programs, this bill eliminates the complex procedure for determining a person’s eligibility for a fee waiver. The main obstacle to obtaining medical records to support applications for public benefit programs is removed. This legislation will help guarantee all eligible applicants receive federal and other benefits to which they are entitled, alleviating financial and administrative burdens on local counties and the State.

Respectfully,



Susan E. Welber

Cc: Hon. Richard Gottfried
Hon. David Valesky