

1 **H. B. 2668**

2  
3 (By Delegates Sobonya, Reynolds, Rodighiero,  
4 C. Miller and Stagers)

5  
6 [Introduced January 20, 2011; referred to the  
7 Committee on Health and Human Resources then the  
8 Judiciary.]

9  
10 A BILL to amend and reenact §16-29-1 of the Code of West Virginia,  
11 1931, as amended, relating to health care records; and  
12 requiring the release of a minor's medical records for drug  
13 testing to natural parent or legal guardian.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §16-29-1 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 29. HEALTH CARE RECORDS.**

18 **§16-29-1. Copies of health care records to be furnished to**  
19 **patients.**

20 ~~Any~~ A licensed, certified or registered health care provider  
21 so licensed, certified or registered under the laws of this state  
22 shall, upon the written request of a patient, his or her authorized  
23 agent or authorized representative, within a reasonable time,  
24 furnish a copy, as requested, of all or a portion of the patient's  
25 record to the patient, his or her authorized agent or authorized

1 representative subject to the following exceptions:

2 (a) In the case of a patient receiving treatment for  
3 psychiatric or psychological problems, a summary of the record  
4 ~~shall~~ must be made available to the patient, his or her authorized  
5 agent or authorized representative following termination of the  
6 treatment program.

7 (b) Nothing in this article ~~shall be construed to~~ requires a  
8 health care provider responsible for diagnosis, treatment or  
9 administering health care services in the case of minors for birth  
10 control, prenatal care, drug rehabilitation or related services or  
11 venereal disease according to any provision of this code, to  
12 release patient records of such diagnosis, treatment or provision  
13 of health care as aforesaid to a parent or guardian, without prior  
14 written consent therefor from the patient, nor shall anything in  
15 this article be construed to apply to persons regulated under the  
16 provisions of chapter eighteen of this code or the rules ~~and~~  
17 ~~regulations~~ established thereunder: Provided, That a health care  
18 provider licensed, certified or registered under the laws of this  
19 state must release an unemancipated minor's drug testing patient  
20 record information to a parent or legal guardian without an  
21 unemancipated minor's written consent.

22 (c) The furnishing of a copy, as requested, of the reports of  
23 X-ray examinations, electrocardiograms and other diagnostic  
24 procedures shall be deemed to comply with the provisions of this

1 article: *Provided*, That original radiological study film from a  
2 radiological exam conducted pursuant to a request from a patient or  
3 patient's representative shall be provided to the patient or  
4 patient's representative upon written request and payment for the  
5 exam. The health care provider ~~shall~~ is not ~~be~~ required to  
6 interpret or retain copies of the film and ~~shall be~~ is immune from  
7 liability resulting from any action relating to the absence of the  
8 original radiological film from the patient's record.

9 (d) This article ~~shall~~ does not apply to records subpoenaed or  
10 otherwise requested through court process.

11 (e) The provisions of this article may be enforced by a  
12 patient, authorized agent or authorized representative, and any  
13 health care provider found to be in violation of this article shall  
14 pay any attorney fees and costs, including court costs incurred in  
15 the course of such enforcement.

16 (f) Nothing in this article shall be construed to apply to  
17 health care records maintained by health care providers governed by  
18 the AIDS-related medical testing and records confidentiality act  
19 under the provisions of article three-(c) of this chapter.

NOTE: The purpose of this bill is to require health care providers to release unemancipated minor's medical records for drug testing to a parent or legal guardian without written consent from minor.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would

be added.