

OFFICE WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 4560

(By Delegates Manchin, Caputo, Longstreth, Skinner, Moore, Wells, M. Poling and Sponaugle)

Passed March 8, 2014

In effect ninety days from passage.



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COMMITTEE SUBSTITUTE

FOR

H. B. 4560

(BY DELEGATES MANCHIN, CAPUTO, LONGSTRETH, SKINNER, MOORE, WELLS, M. POLING AND SPONAUGLE)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating to reimbursement for copies of medical records; copies of medical records in electronic format; and limiting the reimbursement fee for electronic records.

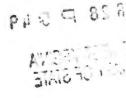
Be it enacted by the Legislature of West Virginia:

That §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 29. HEALTH CARE RECORDS.

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

- (a) Any licensed, certified or registered health care provider
- 2 so licensed, certified or registered under the laws of this state
- 3 shall, upon the written request of a patient, his or her authorized



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5 furnish a copy, in the form of a paper copy or, if requested and 6. if the provider routinely stores records electronically and has the 7 ability to so provide, a copy in an electronic format including, but not limited to, a copy saved upon a computer disc, an 9 electronically mailed copy or a copy saved upon a portable memory device of all or a portion of the patient's record to the

patient, his or her authorized agent or authorized representative

- 12 subject to the following exceptions:
- 13 (1) In the case of a patient receiving treatment for psychiatric 14 or psychological problems, a summary of the record shall be 15 made available to the patient, his or her authorized agent or 16 authorized representative following termination of the treatment 17 program.
 - (2) The furnishing of a copy, as requested, of the reports of X-ray examinations, electrocardiograms and other diagnostic procedures shall be deemed to comply with the provisions of this article.
- 22 (b) Nothing in this article shall be construed to require a 23 health care provider responsible for diagnosis, treatment or 24 administering health care services in the case of minors for birth 25 control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article be construed to apply to persons regulated under the provisions of chapter eighteen of this code or the rules and regulations established thereunder.
- 33 (c) This article does not apply to records subpoenaed or 34 otherwise requested through court process.
- 35 (d) The provisions of this article may be enforced by a 36 patient, authorized agent or authorized representative, and any

- 37 health care provider found to be in violation of this article shall
- 38 pay any attorney fees and costs, including court costs incurred in
- 39 the course of such enforcement.
- 40 (e) Nothing in this article shall be construed to apply to
- 41 health care records maintained by health care providers governed
- 42 by the AIDS-related Medical Testing and Records
- 43 Confidentiality Act under the provisions of article three-c of this
- 44 chapter.

§16-29-2. Reasonable expenses to be reimbursed.

- 1 (a) A person requesting records from a provider shall place
- 2 the request in writing and pay a reasonable, cost-based fee, at the
- 3 time of delivery. Notwithstanding any other section of the code
- 4 or rule, the fee shall be based on the provider's cost of: (1) Labor
- 5 for copying the requested records if in paper, or for placing the
- 6 records in electronic media; (2) supplies for creating the paper
- 7 copy or electronic media; and (3) postage if the person requested
- 8 that the records be mailed.
- 9 If a person requests or agrees to an explanation or summary
- 10 of the records, the provider may charge a reasonable cost-based
- 11 fee for the labor cost if preparing the explanation or the
- 12 summary; for the supplies for creating the explanation or
- 13 summary; and for the cost of postage, if the person requested
- 14 that the records be mailed. If the records are stored with a third
- 15 party or a third party responds to the request for records in paper
- 16 or electronic media, the provider may charge additionally for the
- 17 actual charges incurred from the third party.
- 18 (b) The labor for copying under this section shall not exceed
- 19 twenty-five dollars per hour and shall be adjusted to reflect the
- 20 consumer price index for medical care services such that the
- 21 base amount shall be increased by the proportional consumer
- 22 price index in effect as of October of the calendar year in which
- 23 the request was made, rounded to the nearest dollar.

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- 24 (c) Notwithstanding the provisions of subsection (a) of this 25 section, a provider shall not impose a charge on an indigent 26 person or his or her authorized representative if the medical 27 records are necessary for the purpose of supporting a claim or 28 appeal under any provisions of the Social Security Act, 42 29 U.S.C. §301 et seq. For purposes of this section, a person is 30 considered indigent if he or she:
- 31 (1) Is represented by an organization or affiliated pro bono 32 program that provides legal assistance to indigents; or
- 33 (2) Verifies on a medical records request and release form 34 that the records are requested for purposes of supporting a Social 35 Security claim or appeal and submits with the release form 36 reasonable proof that the person is financially unable to pay full 37 copying charges by reason of unemployment, disability, income 38 below the federal poverty level, or receipt of state or federal 39 income assistance.
 - (d) Any person requesting free copies of written medical records pursuant to the provisions of subsection (c) of this section is limited to one set of copies per provider. Any additional requests for the same records from the same provider shall be subject to the fee provisions of subsection (a).

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| That Joint Committee on Enrolled Bills hereby certifies that the |
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| foregoing bill is correctly enrolled. |
| Sanny Well \ |
| Chairman, House Committee |
| Member — Chairman, Senate Committee |
| Originating in the House. |
| In effect ninety days from passage. |
| _ Sugar 2. Say |
| Clerk of the House of Delegates ASSIMITEMENTS |
| Jun 1911 lay |
| Speaker of the House of Delegates |
| Profident of the Senate |
| The within <u>to approved</u> this the 28th day of, 2014. |
| Call Ray Sombler |

PRESENTED TO THE GOVERNOR

111.28 231 Time 10:45h