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H. B. 2455

(By Delegates Sobonya, Miller, Frich, Householder, Butler,
Ihle and Walters)

[Introduced January 28, 2015; referred to the
Committee on Health and Human Resources then the Judiciary.]

A BILL to amend and reenact §16-29-1 of the Code of West Virginia, 1931, as amended, relating to health care records; and requiring the release of an unemancipated minor’s medical records for drug testing to his or her parent or legal guardian without written consent from that minor.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 29. HEALTH CARE RECORDS.

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

(a) ~~Any~~ A licensed, certified or registered health care provider so licensed, certified or registered under the laws of this state shall, upon the written request of a patient, his or her authorized agent or authorized representative, within a reasonable time, furnish a copy, in the form of a paper copy or, if requested and if the provider routinely stores records electronically and has the ability to so provide, a copy in an electronic format including, but not limited to, a copy saved upon

1 a computer disc, an electronically mailed copy or a copy saved upon a portable memory device of
2 all or a portion of the patient's record to the patient, his or her authorized agent or authorized
3 representative subject to the following exceptions:

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

7 (2) The furnishing of a copy, as requested, of the reports of X-ray examinations,
8 electrocardiograms and other diagnostic procedures shall be deemed to comply with the provisions
9 of this article.

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

20 (c) This article does not apply to records subpoenaed or otherwise requested through court
21 process.

22 (d) The provisions of this article may be enforced by a patient, authorized agent or authorized

1 representative, and any health care provider found to be in violation of this article shall pay any
2 attorney fees and costs, including court costs incurred in the course of such enforcement.

3 (e) Nothing in this article shall be construed to apply to health care records maintained by
4 health care providers governed by the AIDS-related Medical Testing and Records Confidentiality
5 Act 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 that minor.

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