

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2743**

BY DELEGATES ROHRBACH, SOBONYA, ROMINE, C.,  
MILLER, C., BUTLER, QUEEN, HILL, KESSINGER, DEAN,  
FAST AND ROWAN

[Introduced March 1, 2017; Referred  
to the Committee on Prevention and Treatment of  
Substance Abuse then the Judiciary.]

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

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

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

**ARTICLE 29. HEALTH CARE RECORDS.**

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

3 (a) ~~Any~~ A licensed, certified or registered health care provider so licensed, certified or  
 4 registered under the laws of this state shall, upon the written request of a patient, his or her  
 5 authorized agent or authorized representative, within a reasonable time, furnish a copy, in the  
 6 form of a paper copy or, if requested and if the provider routinely stores records electronically and  
 7 has the ability to so provide, a copy in an electronic format including, but not limited to, a copy  
 8 saved upon a computer disc, an electronically mailed copy or a copy saved upon a portable  
 9 memory device of all or a portion of the patient's record to the patient, his or her authorized agent  
 10 or authorized representative subject to the following exceptions:

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

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

17 (b) Nothing in this article ~~shall be construed to require~~ requires a health care provider  
 18 responsible for diagnosis, treatment or administering health care services in the case of minors

19 for birth control, prenatal care, drug rehabilitation or related services or venereal disease  
20 according to any provision of this code, to release patient records of such diagnosis, treatment or  
21 provision of health care as aforesaid to a parent or guardian, without prior written consent therefor  
22 from the patient, nor shall anything in this article be construed to apply to persons regulated under  
23 the provisions of chapter eighteen of this code or the rules ~~and regulations~~ established  
24 thereunder: Provided, That a health care provider licensed, certified or registered under the laws  
25 of this state must release an unemancipated minor's drug testing patient record information to a  
26 parent or legal guardian without that unemancipated minor's written consent.

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

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

32 (e) Nothing in this article shall be construed to apply to health care records maintained by  
33 health care providers governed by the AIDS-related Medical Testing and Records Confidentiality  
34 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 a heading or the present law  
and underscoring indicates new language that would be added.