

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Originating**

## **Senate Bill 846**

BY SENATORS MARONEY, TARR, TAKUBO, WELD,  
AZINGER, RUCKER, MAYNARD, ROBERTS, STOLLINGS,  
UNGER, PLYMALE, AND PALUMBO

[Originating in the Committee on Health and Human  
Resources; reported on February 24, 2020]

1 A BILL to amend and reenact §16-5B-16 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring a hospital to publish notification prior to facility closure regarding patient  
3 medical records, including films; requiring publication to take place upon closure; requiring  
4 publication to take place upon change in location of patient medical records; providing  
5 time frame to respond to patient request for medical records; providing penalty; and  
6 providing effective date.

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

**§16-5B-16. Public notice regarding the closure of a licensed health care facility or hospital.**

1 (a) Any hospital, extended care facility operated in connection with a hospital, ambulatory  
2 health care facility, or ambulatory surgical facility freestanding or operated in connection with a  
3 hospital licensed in the State of West Virginia under this article that intends to terminate operations  
4 shall provide at least three weeks' notice of such intent to the public prior to the actual termination  
5 of operations. Pursuant to the provisions of §59-3-1 *et seq.* of this code, the hospital or facility  
6 shall cause a Class III legal advertisement to be published in all qualified newspapers of general  
7 circulation where the hospital or facility is geographically located and a notice shall be published  
8 on the facility's web page within the same time frame. The first publication of the Class III legal  
9 advertisement shall occur at least three weeks prior to the date the hospital or facility intends to  
10 terminate operations. The Class III legal advertisement shall include, but is not limited to, a  
11 statement, along with the specific or proximate date, that the hospital, extended care facility  
12 operated in connection with a hospital, ambulatory health care facility, or ambulatory surgical  
13 facility freestanding or operated in connection with a hospital, intends to terminate operations,  
14 and where medical records, including, but not limited to, all imaging studies may be obtained.

1 (b) Upon closure, the hospital or facility shall cause a Class III legal advertisement to be  
2 published in all qualified newspapers of general circulation where the hospital or facility is  
3 geographically located informing the public where medical records, including, but not limited to,  
4 all imaging studies may be obtained. This notice shall include contact information. A notice shall

5 also be placed on the facility web page.

6 (c) The hospital or facility shall respond to requests for medical records made pursuant to  
7 the publication requirements in this section within 30 days.

8 (d) A notification of any change in location of the patients' medical records shall be  
9 published in a newspaper of general circulation as set forth in subsection (a) of this section. The  
10 confidentiality of the medical records shall be maintained during storage.

11 (e) If the facility fails to produce the requested records within 30 days, a penalty of \$25 per  
12 day may be assessed by a court with jurisdiction.

13 (f) This section is effective retroactively to September 1, 2019, and continues in effect  
14 thereafter. The applicable penalties are only effective for requests for medical records made after  
15 the effective date of passage of this section.

NOTE: The purpose of this bill is to require a hospital to publish a notice in a newspaper of general circulation informing the public where to retrieve medical records. Requiring the newspaper to publish if medical records are moved and maintain confidentiality.

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