

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

## **House Bill 3311**

BY DELEGATES ROHRBACH, FORSHT, MALLOW,

LONGANACRE AND BATES

[Passed April 9, 2021; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §16-29-2 of the Code of West Virginia, 1931, as amended, relating  
2 to the cost of medical records; requiring that the cost of obtaining a medical record may  
3 not exceed a fee consistent with HIPAA; and providing clarifying technical changes.

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

**ARTICLE 29. HEALTH CARE RECORDS.**

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

1 (a) A provider may charge a patient or the patient's personal representative no more than  
2 a fee consistent with HIPAA, as amended, and any rules promulgated pursuant to HIPAA, plus  
3 any applicable taxes.

4 (b) (1) A person other than a patient or patient's personal representative requesting  
5 records from a health care provider shall submit the request and HIPAA compliant authorization  
6 in writing and pay a fee at the time of delivery. Notwithstanding any other section of the code or  
7 rule, the fees shall not exceed: (A) A search and handling fee of \$20; (B) a per page fee of 40  
8 cents for paper copies; and (C) postage, if the person requested that the records be mailed, plus  
9 any applicable taxes.

10 (2) If the requested record is stored by the health care provider in an electronic form,  
11 unless the person requesting the record specifically requests a paper copy, the records will be  
12 delivered in electronic or digital form and the per page fee for providing an electronic copy shall  
13 not exceed 20 cents per page but shall in no event exceed \$150 inclusive of all fees, including a  
14 search and handling fee, except for applicable taxes.

15 (c) Any person requesting a record be certified by affidavit pursuant to section four-e,  
16 article five, chapter fifty-seven of this code shall pay a fee of \$10 for such certification.

17 (d) If a person requests or agrees to an explanation or summary of the records, the  
18 provider may charge a reasonable cost-based fee for the labor cost if preparing the explanation

19 or the summary; for the supplies for creating the explanation or summary; and for the cost of  
20 postage, if the person requested that the records be mailed, plus any applicable taxes. If the  
21 records are stored with a third party or a third party responds to the request for records in paper  
22 or electronic media, the provider may charge additionally for the actual charges incurred from the  
23 third party.

24 (e) The per page fee for copying under subsection (b) shall be adjusted to reflect the  
25 consumer price index for medical care services such that the base amount shall be increased or  
26 decreased by the proportional consumer price index as published every October 1 starting  
27 October 1, 2017.

28 (f) Notwithstanding the provisions of subsection (a) of this section, a provider shall not  
29 impose a charge on an indigent person or his or her authorized representative if the medical  
30 records are necessary for the purpose of supporting a claim or appeal under any provisions of  
31 the Social Security Act, 42 U. S. C. §301, *et seq.*

32 For purposes of this section, a person is considered indigent if he or she:

33 (1) Is represented by an organization or affiliated pro bono program that provides legal  
34 assistance to indigents; or

35 (2) Verifies on a medical records request and release form that the records are requested  
36 for purposes of supporting a Social Security claim or appeal and submits with the release form  
37 reasonable proof that the person is financially unable to pay full copying charges by reason of  
38 unemployment, disability, income below the federal poverty level or receipt of state or federal  
39 income assistance.

40 (g) Any person requesting free copies of written medical records pursuant to the provisions  
41 of subsection (f) of this section is limited to one set of copies per provider. Any additional requests  
42 for the same records from the same provider shall be subject to the fee provisions of subsections  
43 (a) and (b).

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

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*Governor*