

SB2458



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2458

Introduced 2/15/2008, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-2001

from Ch. 110, par. 8-2001

Amends provisions of the Code of Civil Procedure relating to the examination of health care records. Replaces references to "authorization for the release of records" with references to "authorization for the release of records or protected health information". Makes numerous changes, additions and deletions in provisions concerning copying, duplication, retrieval, and release of records. Effective immediately.

LRB095 18467 WGH 44553 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 8-2001 as follows:

6 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)
7 Sec. 8-2001. Examination of health care records.

8 (a) In this Section:

9 "Health care facility" or "facility" means a public or
10 private hospital, ambulatory surgical treatment center,
11 nursing home, independent practice association, or physician
12 hospital organization, or any other entity where health care
13 services are provided to any person. The term does not include
14 a health care practitioner.

15 "Health care practitioner" means any health care
16 practitioner, including a physician, dentist, podiatrist,
17 advanced practice nurse, physician assistant, clinical
18 psychologist, or clinical social worker. The term includes a
19 medical office, health care clinic, health department, group
20 practice, and any other organizational structure for a licensed
21 professional to provide health care services. The term does not
22 include a health care facility.

23 (b) Every private and public health care facility shall,

1 upon the request of any patient who has been treated in such
2 health care facility, or any person, entity, or organization
3 presenting a valid authorization for the release of records or
4 protected health information signed by the patient or the
5 patient's legally authorized representative, permit the
6 patient, his or her health care practitioner, authorized
7 attorney, or any person, entity, or organization presenting a
8 valid authorization for the release of records or protected
9 health information signed by the patient or the patient's
10 legally authorized representative to examine the health care
11 facility patient care records, including but not limited to the
12 history, bedside notes, charts, pictures and plates, kept in
13 connection with the treatment of such patient, and permit
14 copies of such records to be made by him or her or his or her
15 health care practitioner or authorized attorney.

16 (c) Every health care practitioner shall, upon the request
17 of any patient who has been treated by the health care
18 practitioner, or any person, entity, or organization
19 presenting a valid authorization for the release of records or
20 protected health information signed by the patient or the
21 patient's legally authorized representative, permit the
22 patient and the patient's health care practitioner or
23 authorized attorney, or any person, entity, or organization
24 presenting a valid authorization for the release of records or
25 protected health information signed by the patient or the
26 patient's legally authorized representative, to examine and

1 copy the patient's records or protected health information,
2 including but not limited to those relating to the diagnosis,
3 treatment, prognosis, history, charts, pictures and plates,
4 kept in connection with the treatment of such patient.

5 (d) A request for copies of the records or protected health
6 information shall be in writing and shall be delivered to the
7 administrator or manager of such health care facility or to the
8 health care practitioner. The person (including but not limited
9 to patients, health care practitioners, insurance companies,
10 third party payors, and attorneys) requesting copies of records
11 or protected health information shall reimburse the facility or
12 the health care practitioner at the time of such copying for
13 all ~~reasonable~~ expenses, including the costs of independent
14 copy service companies, incurred in connection with such
15 copying which shall be not to exceed a \$20 handling charge for
16 processing the request and the actual postage or shipping
17 charge, if any, plus: \$1 per page for documents reproduced from
18 paper or generated from computerized or other electronic
19 storage or other photographic, mechanical, electronic imaging,
20 or digital imaging. Requesters are required to reimburse the
21 health care facility or health care practitioner for fees
22 associated with retrieval of records from off-site storage
23 facilities. ~~(1) for paper copies 75 cents per page for the~~
24 ~~first through 25th pages, 50 cents per page for the 26th~~
25 ~~through 50th pages, and 25 cents per page for all pages in~~
26 ~~excess of 50 (except that the charge shall not exceed \$1.25 per~~

1 ~~page for any copies made from microfiche or microfilm ; records~~
2 ~~retrieved from scanning, digital imaging, electronic~~
3 ~~information or other digital format do not qualify as~~
4 ~~microfiche or microfilm retrieval for purposes of calculating~~
5 ~~charges); and (2) for electronic records, retrieved from a~~
6 ~~scanning, digital imaging, electronic information or other~~
7 ~~digital format in a electronic document, a charge of 50% of the~~
8 ~~per page charge for paper copies under subdivision (d) (1). This~~
9 ~~per page charge includes the cost of each CD Rom, DVD, or other~~
10 ~~storage media. Records already maintained in an electronic or~~
11 ~~digital format shall be provided in an electronic format when~~
12 ~~so requested. If the records system does not allow for the~~
13 ~~creation or transmission of an electronic or digital record,~~
14 ~~then the facility or practitioner shall inform the requester in~~
15 ~~writing of the reason the records can not be provided~~
16 ~~electronically. The written explanation may be included with~~
17 ~~the production of paper copies, if the requester chooses to~~
18 ~~order paper copies. These rates shall be automatically adjusted~~
19 ~~as set forth in Section 8-2006. If the requester requests~~
20 ~~records to be provided on CD, DVD, or other storage media, the~~
21 ~~protected health information may only be released in such a~~
22 ~~manner if the following standards are in place: (1) the~~
23 ~~protected health information requested must be easily~~
24 ~~accessible; (2) protected health information reproduced onto~~
25 ~~the CD, DVD, or other storage media must not allow for~~
26 ~~destruction, mutilation or alteration. The information must be~~

1 protected from spoliation of any form in order to maintain the
2 integrity of the protected health information. The health care
3 facility or health care practitioner may refuse a request to
4 reproduce such protected health information on CD, DVD, or
5 other storage media and reproduce in a manner the health care
6 facility or health care practitioner chooses (i.e. paper
7 reproduction). No explanation is required by the facility. ~~The~~
8 ~~facility or health care practitioner may, however, charge for~~
9 ~~the reasonable cost of all duplication of record material or~~
10 ~~information that cannot routinely be copied or duplicated on a~~
11 ~~standard commercial photocopy machine such as x-ray films or~~
12 ~~pictures.~~

13 (e) The requirements of this Section shall be satisfied
14 within 30 days of the receipt of a written request by a patient
15 or by his or her legally authorized representative, health care
16 practitioner, authorized attorney, or any person, entity, or
17 organization presenting a valid authorization for the release
18 of records signed by the patient or the patient's legally
19 authorized representative. If the facility or health care
20 practitioner needs more time to comply with the request, then
21 within 30 days after receiving the request, the facility or
22 health care practitioner must provide the requesting party with
23 a written statement of the reasons for the delay and the date
24 by which the requested information will be provided. In any
25 event, the facility or health care practitioner must provide
26 the requested information no later than 60 days after receiving

1 the request.

2 (f) A health care facility or health care practitioner must
3 provide the public with at least 30 days prior notice of the
4 closure of the facility or the health care practitioner's
5 practice. The notice must include an explanation of how copies
6 of the facility's records may be accessed by patients. The
7 notice may be given by publication in a newspaper of general
8 circulation in the area in which the health care facility or
9 health care practitioner is located.

10 (g) Failure to comply with the time limit requirement of
11 this Section shall subject the denying party to expenses and
12 reasonable attorneys' fees incurred in connection with any
13 court ordered enforcement of the provisions of this Section.

14 (Source: P.A. 94-155, eff. 1-1-06; 95-478, eff. 1-1-08 (changed
15 from 8-27-07 by P.A. 95-480); 95-480, eff. 1-1-08.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.