

1 **H. B. 2485**

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3 (By Delegates Sobonya and Border)
4 [Introduced February 15, 2013; referred to the
5 Committee on Health and Human Resources then the
6 Judiciary.]
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10 A BILL to amend and reenact §16-29-1 of the Code of West Virginia,
11 1931, as amended, relating to health care records; and
12 requiring the release of a minor's medical records for drug
13 testing to natural parent or legal guardian.

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

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

17 **ARTICLE 29. HEALTH CARE RECORDS.**

18 **§16-29-1. Copies of health care records to be furnished to**
19 **patients.**

20 ~~Any~~ A licensed, certified or registered health care provider
21 so licensed, certified or registered under the laws of this state
22 shall, upon the written request of a patient, his or her authorized
23 agent or authorized representative, within a reasonable time,

1 furnish a copy, as requested, of all or a portion of the patient's
2 record to the patient, his or her authorized agent or authorized
3 representative subject to the following exceptions:

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

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

24 (c) The furnishing of a copy, as requested, of the reports of

1 X-ray examinations, electrocardiograms and other diagnostic
2 procedures shall be deemed to comply with the provisions of this
3 article: *Provided*, That original radiological study film from a
4 radiological exam conducted pursuant to a request from a patient or
5 patient's representative shall be provided to the patient or
6 patient's representative upon written request and payment for the
7 exam. The health care provider ~~shall~~ is not ~~be~~ required to
8 interpret or retain copies of the film and ~~shall be~~ is immune from
9 liability resulting from any action relating to the absence of the
10 original radiological film from the patient's record.

11 (d) This article ~~shall~~ does not apply to records subpoenaed or
12 otherwise requested through court process.

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

18 (f) Nothing in this article shall be construed to apply to
19 health care records maintained by health care providers governed by
20 the AIDS-related medical testing and records confidentiality act
21 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

minor.

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