

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4560**

5 (By Delegates Manchin, Caputo, Longstreth,
6 Skinner, Moore, Wells, M. Poling and Sponaugle)
7

8 [Passed March 8, 2014; in effect ninety days from passage.]
9

10 AN ACT to amend and reenact §16-29-1 and §16-29-2 of the Code of
11 West Virginia, 1931, as amended, all relating to reimbursement
12 for copies of medical records; copies of medical records in
13 electronic format; and limiting the reimbursement fee for
14 electronic records.

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

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

18 **ARTICLE 29. HEALTH CARE RECORDS.**

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

21 (a) Any licensed, certified or registered health care provider
22 so licensed, certified or registered under the laws of this state
23 shall, upon the written request of a patient, his or her authorized
24 agent or authorized representative, within a reasonable time,
25 furnish a copy, in the form of a paper copy or, if requested and if
26 the provider routinely stores records electronically and has the
27 ability to so provide, a copy in an electronic format including,
28 but not limited to, a copy saved upon a computer disc, an

1 electronically mailed copy or a copy saved upon a portable memory
2 device of all or a portion of the patient's record to the patient,
3 his or her authorized agent or authorized representative subject to
4 the following exceptions:

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

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

14 (b) Nothing in this article shall be construed to require a
15 health care provider responsible for diagnosis, treatment or
16 administering health care services in the case of minors for birth
17 control, prenatal care, drug rehabilitation or related services or
18 venereal disease according to any provision of this code, to
19 release patient records of such diagnosis, treatment or provision
20 of health care as aforesaid to a parent or guardian, without prior
21 written consent therefor from the patient, nor shall anything in
22 this article be construed to apply to persons regulated under the
23 provisions of chapter eighteen of this code or the rules and
24 regulations established thereunder.

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

27 (d) The provisions of this article may be enforced by a

1 patient, authorized agent or authorized representative, and any
2 health care provider found to be in violation of this article shall
3 pay any attorney fees and costs, including court costs incurred in
4 the course of such enforcement.

5 (e) Nothing in this article shall be construed to apply to
6 health care records maintained by health care providers governed by
7 the AIDS-related Medical Testing and Records Confidentiality Act
8 under the provisions of article three-c of this chapter.

9 **§16-29-2. Reasonable expenses to be reimbursed.**

10 (a) A person requesting records from a provider shall place
11 the request in writing and pay a reasonable, cost-based fee, at the
12 time of delivery. Notwithstanding any other section of the code or
13 rule, the fee shall be based on the provider's cost of: (1) Labor
14 for copying the requested records if in paper, or for placing the
15 records in electronic media; (2) supplies for creating the paper
16 copy or electronic media; and (3) postage if the person requested
17 that the records be mailed.

18 If a person requests or agrees to an explanation or summary of
19 the records, the provider may charge a reasonable cost-based fee
20 for the labor cost if preparing the explanation or the summary; for
21 the supplies for creating the explanation or summary; and for the
22 cost of postage, if the person requested that the records be
23 mailed. If the records are stored with a third party or a third
24 party responds to the request for records in paper or electronic
25 media, the provider may charge additionally for the actual charges
26 incurred from the third party.

27 (b) The labor for copying under this section shall not exceed

1 twenty-five dollars per hour and shall be adjusted to reflect the
2 consumer price index for medical care services such that the base
3 amount shall be increased by the proportional consumer price index
4 in effect as of October of the calendar year in which the request
5 was made, rounded to the nearest dollar.

6 (c) Notwithstanding the provisions of subsection (a) of this
7 section, a provider shall not impose a charge on an indigent person
8 or his or her authorized representative if the medical records are
9 necessary for the purpose of supporting a claim or appeal under any
10 provisions of the Social Security Act, 42 U.S.C. §301 et seq. For
11 purposes of this section, a person is considered indigent if he or
12 she:

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

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

22 (d) Any person requesting free copies of written medical
23 records pursuant to the provisions of subsection (c) of this
24 section is limited to one set of copies per provider. Any
25 additional requests for the same records from the same provider
26 shall be subject to the fee provisions of subsection (a).