

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2317

BY DELEGATES ROHRBACH AND FAST

[Introduced January 11, 2019; Referred
to the Committee on Health and Human Resources
then the Judiciary.]

1 A BILL to amend and reenact §16-29-1 of the Code of West Virginia, 1931, as amended, relating
 2 to health care records; and requiring the release of an unemancipated minor's medical
 3 records for drug testing to his or her parent or legal guardian without written consent from
 4 that minor.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. HEALTH CARE RECORDS.

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

1 (a) ~~Any~~ A licensed, certified or registered health care provider so licensed, certified or
 2 registered under the laws of this state shall, upon the written request of a patient, his or her
 3 authorized agent or authorized representative, within a reasonable time, furnish a copy, in the
 4 form of a paper copy or, if requested and if the provider routinely stores records electronically and
 5 has the ability to so provide, a copy in an electronic format including, but not limited to, a copy
 6 saved upon a computer disc, an electronically mailed copy or a copy saved upon a portable
 7 memory device of all or a portion of the patient's record to the patient, his or her authorized agent
 8 or authorized representative subject to the following exceptions:

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

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

15 (b) Nothing in this article ~~shall be construed to require~~ requires a health care provider
 16 responsible for diagnosis, treatment or administering health care services in the case of minors
 17 for birth control, prenatal care, drug rehabilitation or related services or venereal disease
 18 according to any provision of this code, to release patient records of such diagnosis, treatment or
 19 provision of health care as aforesaid to a parent or guardian, without prior written consent therefor

20 from the patient, nor shall anything in this article be construed to apply to persons regulated under
21 the provisions of chapter 18 of this code or the rules ~~and regulations~~ established thereunder:
22 Provided, That a health care provider licensed, certified or registered under the laws of this state
23 must release an unemancipated minor's drug testing patient record information to a parent or
24 legal guardian without that unemancipated minor's written consent.

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

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

30 (e) Nothing in this article shall be construed to apply to health care records maintained by
31 health care providers governed by the AIDS-related Medical Testing and Records Confidentiality
32 Act under ~~the provisions of~~ §16-3C-1 *et seq.* of this code.

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 that minor.

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