

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4320

By Delegates Burkhammer, Kimble, Horst and Thorne

[Originating in the Committee on the Judiciary;

Reported on February 2, 2024]

1 A BILL to amend and reenact §16-9A-2 of the Code of West Virginia, 1931, as amended, relating
2 to providing copies of health care records to patients, and to amend the Code of West
3 Virginia, 1931, as amended, by adding thereto a new section, designated §16-29-3 relating
4 to a parent or guardian's access to the health care records of their minor child; and relating
5 to a requirement that no release, authorization, nor any form of permission from or by the
6 minor child shall be required or requested as a prerequisite for the parent or legal guardian
7 to obtain the medical records.

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 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 personal representative, as defined by the Health Insurance Portability and Accountability Act of
4 1996 (HIPAA), as amended, and any rules promulgated pursuant to the act, and his or her
5 authorized agent or authorized representative, within no more than thirty days from the receipt of
6 the request, furnish a copy in the form of a paper copy or, if requested and if the provider routinely
7 stores records electronically and has the ability to so provide, a copy in an electronic format
8 including, but not limited to, a downloadable format through a secure web portal, a copy saved
9 upon a computer disc, an electronically mailed copy or a copy saved upon a portable memory
10 device of all or a portion of the patient's record to the patient, his or her personal representative, or
11 authorized agent or authorized representative subject to the following exceptions:

12 (1) Unless, in the case of a patient receiving mental health treatment, ~~for psychiatric or~~
13 ~~psychological problems,~~ a summary of the record shall be made available to the patient, personal
14 representative, or his or her authorized agent or authorized representative following termination of
15 the treatment. ~~program.~~

16 (2) The furnishing of a copy, as requested, of the reports of x-ray examinations,
17 electrocardiograms and other diagnostic procedures shall be deemed to comply with the
18 provisions of this article.

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

26 ~~(c)~~ This article does not apply to records subpoenaed or otherwise requested through court
27 process, except for the fee provisions in §16-29-2, which do apply to subpoenaed records.

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

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

§16-29-3. Access to minor's records.

1 (a) A parent or guardian may not be denied access to the health records of their minor child
2 unless otherwise ordered by a court or pursuant to subsection (b) of this section.

3 (b) A parent is not permitted to access the health records of that parent's minor child if:

4 (1) The child has graduated high school or equivalent;

5 (2) The child is emancipated; or

6 (3) The child is married.

7 (c) Except as provided in subsection (b) of this section, no release, authorization, nor any
8 form of permission from or by the minor child shall be required or requested as a prerequisite for
9 the parent or legal guardian to obtain the medical records.