

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Gordon**

A Bill

ACT 708 OF 1995
SENATE BILL 283

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §16-46-106 TO
9 PROVIDE THAT PATIENTS COMPELLED TO USE THE SUBPOENA
10 PROCESS TO OBTAIN THEIR OWN MEDICAL RECORDS SHALL BE
11 ENTITLED TO A REASONABLE ATTORNEYS FEE PLUS COST OF COURT;
12 AND FOR OTHER PURPOSES."

Subtitle

15 "TO PROVIDE THAT PATIENTS COMPELLED TO
16 USE THE SUBPOENA PROCESS TO OBTAIN THEIR
17 OWN MEDICAL RECORDS SHALL BE ENTITLED TO
18 A REASONABLE ATTORNEYS FEE PLUS COST OF
19 COURT"

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code Annotated §16-46-106 is amended to read as
24 follows:

25 "16-46-106. Access to medical records.

26 (a) (1) In contemplation of, preparation for, or use in any legal
27 proceeding, any person who is or has been a patient of a doctor, hospital, or
28 other medical institution shall be entitled to obtain access, personally or by
29 and through his or her attorney, to the information in his or her medical
30 records, upon request and with written patient authorization, and shall be
31 furnished copies of all medical records pertaining to his or her case upon the
32 tender of the expense of such copy or copies.

33 (2) Cost of each photocopy, excluding X rays, shall not exceed
34 one dollar (\$1.00) per page for the first five (5) pages and twenty-five cents
35 (.25¢) for each additional page, except that the minimum charge shall be five
36 dollars (\$5.00).

0119950933.jjd391

1 (3) Provided, however, a reasonable retrieval fee for stored
2 records of a hospital may be added to the photocopy charges.

3 (4) Provided, further, this section shall not prohibit reasonable
4 fees for narrative medical reports or medical review when performed by the
5 doctor or medical institution subject to the request.

6 (b)(1) If a doctor believes a patient should be denied access to his or
7 her medical records for any reason, the doctor must provide the patient or the
8 patient's guardian or attorney a written determination that disclosure of such
9 information would be detrimental to the individual's health or well-being.

10 (2)(A) At such time, the patient or the patient's guardian or
11 attorney may select another doctor in the same type practice as the doctor
12 subject to the request to review such information and determine if disclosure
13 of such information would be detrimental to the patient's health or
14 well-being.

15 (B) If the second doctor determines, based upon
16 professional judgment, that disclosure of such information would not be
17 detrimental to the health or well-being of the individual, the medical records
18 shall be released to the patient or the patient's guardian or attorney.

19 (3) If the determination is that disclosure of such information
20 would be detrimental, then it either will not be released or the objectionable
21 material will be obscured before release.

22 (4) The cost of this review of the patient's record will be borne
23 by the patient or the patient's guardian or attorney.

24 (c) Nothing in this section shall preclude the existing subpoena
25 process; however, if a patient is compelled to use the subpoena process in
26 order to obtain access to or copies of their own medical records after
27 reasonable requests have been made and a reasonable time has expired, then the
28 court issuing the subpoena and having jurisdiction over the proceedings shall
29 grant the patient a reasonable attorneys fee plus costs of court against the
30 doctor, hospital or medical institution.

31 (d) This section does not apply to the Department of Correction."
32

33 SECTION 2. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 3-21-95

