

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

**Act 1436 of the Regular Session**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H2/21/05 S3/22/05*

**A Bill**

HOUSE BILL 1688

5 By: Representative Thyer  
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7

**For An Act To Be Entitled**

9 AN ACT TO CREATE THE PATIENT MEDICAL RECORDS  
10 PRIVACY ACT; TO REQUIRE THAT A PARTY IN  
11 LITIGATION PROVIDE NOTICE THAT MEDICAL RECORDS  
12 *HAVE BEEN RECEIVED OR OBTAINED; TO ESTABLISH*  
13 GUIDELINES FOR USE OF MEDICAL RECORDS AT TRIAL;  
14 AND FOR OTHER PURPOSES.  
15

**Subtitle**

16 AN ACT TO CREATE THE PATIENT MEDICAL  
17 RECORDS PRIVACY ACT.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 16, Chapter 46 is amended to add an  
24 additional subchapter to read as follows:

25 Subchapter 4 – Patient Medical Records Privacy Act

26 16-46-401. Title.

27 This subchapter shall be known and may be cited as the “Patient Medical  
28 Records Privacy Act”.  
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30 16-46-402. Definitions.

31 As used in this subchapter:

32 (1)(A) "Medical records" means hospital or clinic records,  
33 physician records, or other health care records and includes an admitting  
34 form, discharge summary, history and physical, progress notes, physicians'  
35 orders, reports of operations, recovery room records, lab reports,



1 consultation reports, medication records, nurses' notes, and other reports  
2 catalogued and maintained by the medical records department of a hospital,  
3 doctor's office, medical clinic, or any other medical facility.

4 (B) "Medical records" includes X rays, computed tomography  
5 imaging, magnetic resonance imaging, electrocardiograms, radiographic  
6 studies, and other testing that generate a printed result; and

7 (2) "Party in litigation" means any person who requests copies  
8 of a patient's medical records from any doctor, hospital, or other custodian  
9 of records for use in any civil legal proceeding.

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11 16-46-403. Notice required.

12 (a) Any party in litigation that receives or obtains a copy of a  
13 patient's medical records from a doctor, hospital, or other custodian of  
14 records by using a subpoena, court order, or consent form signed by the  
15 patient shall provide written notice of the receipt of the records to the:

16 (1) Patient; or

17 (2) Patient's attorney if the patient is represented by an  
18 attorney.

19 (b) The notice required by subsection (a) of this section may be made  
20 by:

21 (1) Any form of mail addressed to the person to be served with a  
22 return receipt requested and delivery restricted to the addressee or the  
23 agent of the addressee; or

24 (2) Facsimile with a receipt or transaction report showing that  
25 the transmittal was received.

26 (c) The notice required by subsection (a) of this section shall  
27 include the name and address of the provider for each record which was  
28 obtained.

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30 16-46-404. Use of medical records at trial.

31 If notice is not given as required by § 16-46-403, a party in  
32 litigation shall be prohibited from introducing the patient's medical records  
33 into evidence or referring to the patient's medical records in any manner in  
34 a legal proceeding relating to the patient.

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36 16-46-405. Scope of subchapter.

1           (a) This subchapter shall apply to private litigants in civil actions  
2 only and shall not alter the rights, duties, or responsibilities of any  
3 person or entity in any other type of legal proceeding, including, but not  
4 limited to, actions under the Workers' Compensation Law, § 11-9-101 et seq.

5           (b) All provisions of this subchapter shall be subject to the Health  
6 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

7           (c) Upon adoption of a Supreme Court rule which is substantially  
8 similar to the provisions of this subchapter, this subchapter shall be deemed  
9 superseded.

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/s/ Thyer

APPROVED: 3/31/2005

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