

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 662 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/13/07

A Bill

HOUSE BILL 2811

5 By: Representative Harrelson
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 16-46-106
10 CONCERNING THE COST OF EACH PHOTOCOPY OF MEDICAL
11 RECORDS; TO AMEND ARKANSAS CODE § 16-46-301, §
12 16-46-302, § 16-46-305, AND § 16-46-308 TO
13 INCLUDE MEDICAL RECORDS FROM PHYSICIAN OFFICES AS
14 SELF-AUTHENTICATING UNDER THE HOSPITAL RECORDS
15 ACT, § 16-46-301 ET SEQ.; TO PROVIDE A REASONABLE
16 FEE FOR COPYING MEDICAL RECORDS; AND FOR OTHER
17 PURPOSES.

Subtitle

18
19
20 TO INCLUDE MEDICAL RECORDS FROM
21 PHYSICIAN OFFICES AS SELF-AUTHENTICATING
22 UNDER THE HOSPITAL RECORDS ACT AND TO
23 PROVIDE A REASONABLE FEE FOR COPYING
24 MEDICAL RECORDS.

25
26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28
29 SECTION 1. Arkansas Code § 16-46-106(a), concerning the cost of
30 medical records in contemplation of, preparation for, or use in any legal
31 proceeding, is amended to read as follows:

32 (a)(1) In contemplation of, preparation for, or use in any legal
33 proceeding, any person who is or has been a patient of a doctor, hospital,
34 ambulance provider, medical health care provider, or other medical
35 institution shall be entitled to obtain access, personally or by and through



1 his or her attorney, to the information in his or her medical records, upon
2 request and with written patient authorization, and shall be furnished copies
3 of all medical records pertaining to his or her case upon the tender of the
4 expense of such copy or copies.

5 (2) Cost of each photocopy, excluding X rays, shall not exceed
6 ~~one dollar (\$1.00)~~ fifty cents (.50) per page for the first ~~five (5)~~ twenty-
7 five (25) pages and twenty-five cents (.25) for each additional page, ~~except~~
8 ~~that the minimum charge shall be five dollars (\$5.00).~~ A labor charge not
9 exceeding fifteen dollars (\$15.00) may be added for each request for medical
10 records under subdivision (a)(1) of this section and the actual cost of any
11 required postage may also be charged.

12 (3) Provided, however, in the alternative to the labor charge
13 described in subdivision (a)(2) of this section, a reasonable retrieval fee
14 for stored records of a hospital, a physician's office, or an ambulance
15 provider may be added to the photocopy charges, only if the requested records
16 are stored at a location other than the location of the hospital, physician's
17 office, or ambulance provider.

18 (4) Provided, further, this section shall not prohibit
19 reasonable fees for narrative medical reports or medical review when
20 performed by the ~~doctor~~ physician or medical institution subject to the
21 request, but only if a narrative medical report or medical review is
22 requested by the person or entity requesting the records.

23
24 SECTION 2. Arkansas Code § 16-46-301 is amended to read as follows:

25 16-46-301. Definitions.

26 As used in this subchapter, unless the context otherwise requires:

27 (1) "Custodian" means the medical records librarian and the
28 administrator or other chief officer of a duly licensed hospital, physician's
29 office, or comprehensive community mental health center in this state and its
30 proprietor, as well as his or her deputies and assistants, and any other
31 persons who are official custodians or depositories of records; and

32 (2)(A) "Records" means hospital records, physician's records, or
33 medical records and includes an admitting form, discharge summary, history
34 and physical, progress notes, physicians' orders, reports of operations,
35 recovery room records, lab reports, consultation reports, medication records,
36 nurses' notes, and other reports catalogued and maintained by the hospital's

1 medical record department or by a physician's office.

2 (B) However, "records" shall not mean and include X rays,
3 electrocardiograms, and similar graphic matter.

4
5 SECTION 3. Arkansas Code § 16-46-302 is amended to read as follows:

6 16-46-302. Furnishing copies of records in compliance with subpoenas.

7 Except as hereinafter provided, when a subpoena duces tecum is served
8 upon a custodian of records of any hospital or physician's office duly
9 licensed under the laws of this state in an action or proceeding in which the
10 hospital or physician's office is neither a party nor the place where any
11 cause of action is alleged to have arisen and such a subpoena requires the
12 production of all or any part of the records of the hospital or physician's
13 office related to the care or treatment of a patient in the hospital or
14 physician's office, then it shall be sufficient compliance therewith if the
15 custodian delivers, by hand or by registered mail to the court clerk or the
16 officer, court reporter, body, or tribunal issuing the subpoena or conducting
17 the hearing, a true and correct copy of all records described in the subpoena
18 together with the affidavit described in § 16-46-305. However, a subpoena
19 duces tecum for records shall not be deemed to include X rays,
20 electrocardiograms, and similar graphic matter unless they are specifically
21 referred to in the subpoena.

22
23 SECTION 4. Arkansas Code § 16-46-305 is amended to read as follows:

24 16-46-305. Affidavit of custodian as to copies - Charges.

25 (a) The records shall be accompanied by an affidavit of a custodian
26 stating in substance:

27 (1) That the affiant is the duly authorized custodian of the
28 records and has authority to certify the records;

29 (2) That the copy is a true copy of all the records described in
30 the subpoena; and

31 (3) That the records were prepared by personnel of the hospital,
32 staff physicians, or persons acting under the control of either, or the
33 physician, personnel of the physician's office, or persons acting under
34 control of the physician, in the ordinary course of the hospital's or
35 physician's office business at or near the time of the act, condition, or
36 event reported therein.

1 (b) If the hospital or physician's office has none of the records
2 described, or only part of them, the custodian shall state so in the
3 affidavit and file the affidavit and any records as are available in the
4 manner described in §§ 16-46-302 and 16-46-303.

5 (c) The custodian of the records may enclose a statement of costs for
6 copying the records, and the costs of copying the records shall be borne by
7 the party requesting the subpoena duces tecum for the records.

8
9 SECTION 5. Arkansas Code § 16-46-308 is amended to read as follows:
10 16-46-308. Substitution of copies for original records.

11 In view of the property right of the hospital or physician's office in
12 its records, original records may be withdrawn after introduction into
13 evidence and copies substituted unless otherwise directed by the court,
14 judge, officer, body, or tribunal conducting the hearing. The custodian may
15 prepare copies of original records in advance of testifying for the purpose
16 of making substitution of the original record, and the reasonable charges for
17 making the copies shall be borne by the party requesting the subpoena. If
18 copies are not prepared in advance, they can be made and substituted at any
19 time after introduction of the original record, and the reasonable charges
20 for making the copies shall be borne by the party requesting the subpoena.

21
22 /s/ Harrelson

23
24 APPROVED: 3/28/2007
25
26
27
28
29
30
31
32
33
34
35
36