

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/8/23

A Bill

HOUSE BILL 1275

5 By: Representative L. Johnson
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO REGULATE ELECTRONIC MEDICAL RECORDS; TO
10 PROHIBIT A HEALTHCARE PAYOR THAT HAS ELECTRONIC
11 ACCESS TO MEDICAL RECORDS FROM REQUESTING MEDICAL
12 RECORDS IN A DIFFERENT FORMAT FROM A HEALTHCARE
13 PROVIDER; AND FOR OTHER PURPOSES.
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Subtitle

16 TO REGULATE ELECTRONIC MEDICAL RECORDS;
17 AND TO PROHIBIT A HEALTHCARE PAYOR THAT
18 HAS ELECTRONIC ACCESS TO MEDICAL RECORDS
19 FROM REQUESTING MEDICAL RECORDS IN A
20 DIFFERENT FORMAT FROM A HEALTHCARE
21 PROVIDER.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an
28 additional subchapter to read as follows:
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30 Subchapter 16 – Electronic Access of Medical Records by Healthcare Payor Act

31 23-99-1601. Title.

32 This subchapter shall be known and may be cited as the "Electronic
33 Access of Medical Records by Healthcare Payor Act".
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35 23-99-1602. Definitions.
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1 As used in this subchapter:

2 (1) "Authorized designee" means an entity that is:

3 (A) Designated by a healthcare payor to operate on its
4 behalf; and

5 (B) Authorized to access an enrollee's protected health
6 information under the Health Insurance Portability and Accountability Act of
7 1996, Pub. L. No. 104-191, as it existed on January 1, 2023;

8 (2) "Enrollee" means an individual who is entitled to receive
9 healthcare services under the terms of a health benefit plan;

10 (3)(A) "Health benefit plan" means an individual, blanket, or
11 group plan, policy, or contract for healthcare services issued, renewed, or
12 extended in this state by a healthcare insurer, health maintenance
13 organization, hospital medical service corporation, or self-insured
14 governmental or church plan in this state.

15 (B) "Health benefit plan" includes:

16 (i) Indemnity and managed care plans; and

17 (ii) Plans providing health benefits to state and
18 public school employees under § 21-5-401 et seq.

19 (C) "Health benefit plan" does not include:

20 (i) A plan that provides only dental benefits or eye
21 and vision care benefits;

22 (ii) A disability income plan;

23 (iii) A credit insurance plan;

24 (iv) Insurance coverage issued as a supplement to
25 liability insurance;

26 (v) Medical payments under an automobile or
27 homeowners insurance plan;

28 (vi) A health benefit plan provided under Arkansas
29 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
30 seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

31 (vii) A plan that provides only indemnity for
32 hospital confinement;

33 (viii) An accident-only plan; or

34 (ix) A specified disease plan;

35 (4)(A) "Healthcare payor" means:

36 (i) A health insurance company;

1 (ii) A health maintenance organization;

2 (iii) A hospital and medical service corporation; or

3 (iv) An entity that:

4 (a) Provides or administers a self-funded
5 health benefit plan, including a governmental plan; or

6 (b) Performs utilization review for a self-
7 funded health benefit plan, including a governmental plan.

8 (B) "Healthcare payor" includes any entity that is subject
9 to any of the following laws:

10 (i) The insurance laws of this state;

11 (ii) Section 23-75-101 et seq., pertaining to
12 hospital and medical service corporations; or

13 (iii) Section 23-76-101 et seq., pertaining to
14 health maintenance organizations.

15 (C) "Healthcare payor" does not include an entity that
16 provides only dental benefits or eye and vision care benefits;

17 (5)(A) "Healthcare provider" means a person that is licensed,
18 certified, or otherwise authorized by the laws of this state to provide
19 healthcare services.

20 (B) "Healthcare provider" includes only:

21 (i) Advanced practice nurses;

22 (ii) Athletic trainers;

23 (iii) Audiologists;

24 (iv) Certified behavioral health providers;

25 (v) Certified orthotists;

26 (vi) Chiropractors;

27 (vii) Community mental health centers or clinics;

28 (viii) Dentists;

29 (ix) Home health care;

30 (x) Hospice care;

31 (xi) Hospital-based services;

32 (xii) Hospitals;

33 (xiii) Licensed ambulatory surgery centers;

34 (xiv) Licensed certified social workers;

35 (xv) Licensed dietitians;

36 (xvi) Licensed intellectual and developmental

1 disabilities service providers;

2 (xvii) Licensed professional counselors;

3 (xviii) Licensed psychological examiners;

4 (xix) Long-term care facilities;

5 (xx) Occupational therapists;

6 (xxi) Optometrists;

7 (xxii) Pharmacists;

8 (xxiii) Physical therapists;

9 (xxiv) Physicians and surgeons;

10 (xxv) Podiatrists;

11 (xxvi) Prosthetists;

12 (xxvii) Psychologists;

13 (xxviii) Respiratory therapists;

14 (xxix) Rural health clinics; and

15 (xxx) Speech pathologists;

16 (6) "Healthcare services" means services and products, including
17 prescription medication, provided by a healthcare provider within the scope
18 of the healthcare provider's license;

19 (7)(A) "Medical records" means the hospital or clinic records,
20 physicians' records, or other healthcare records that a healthcare provider
21 retains on an enrollee related to the enrollee's medical conditions.

22 (B) "Medical records" includes other reports, documents,
23 or records that a healthcare provider has concerning:

24 (i) The healthcare services provided to the
25 enrollee;

26 (ii) The enrollee's medical history; and

27 (iii) Prescription medications written, procedures
28 ordered, or any other information related to the patient's overall health;
29 and

30 (8) "Prescription medication" means a drug or biologic that is
31 prescribed by a healthcare provider to an enrollee for the purpose of
32 alleviating, curing, preventing, or healing illness, injury, or physical
33 disability.

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35 23-99-1603. Electronic access to medical records sufficient.

36 (a) A healthcare provider that provides healthcare services to an

1 enrollee may grant electronic access to the healthcare provider's medical
2 records system to a healthcare payor or the healthcare payor's authorized
3 designee:

4 (1) To evaluate potential health care to be provided to an
5 enrollee;

6 (2) To review healthcare services already provided to an
7 enrollee;

8 (3) To make a determination on an authorization required for the
9 enrollee to receive a medically-necessary healthcare service; or

10 (4) For any other reason related to healthcare services for an
11 enrollee, including without limitation quality, payment, or other general
12 operations required to provide healthcare services.

13 (b) A healthcare provider is not required to provide electronic access
14 to medical records to a healthcare payor or the healthcare payor's authorized
15 designee.

16 (c) For the purposes of subdivision (a)(2) of this section, a
17 healthcare payor shall not require a healthcare provider to submit any paper,
18 facsimile, email, or other type of requested format of medical records if the
19 healthcare payor or the healthcare payor's authorized designee has been
20 granted electronic access to the healthcare provider's medical records unless
21 the medical records sought are not available or accessible electronically.

22 (d) If there is a dispute over access to medical records between a
23 healthcare payor and a healthcare provider, then the offer of electronic
24 access to medical records by the healthcare provider shall be deemed to
25 satisfy any request made by the healthcare payor.

26 (e) The initial grant of electronic access to a healthcare provider's
27 medical records system under this subchapter does not initiate any timelines
28 associated with reviewing medical records.

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30 SECTION 2. DO NOT CODIFY. EFFECTIVE DATE. This act is effective on
31 and after January 1, 2024.

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33 /s/L. Johnson
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