

Hall of the House of Representatives
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of House Bill No. 2811

"TO AMEND ARKANSAS CODE 16-46-106 CONCERNING THE COST OF EACH
PHOTOCOPY OF MEDICAL RECORDS."

Amendment No. 1 to House Bill No. 2811.

Amend House Bill No. 2811 as originally introduced:

Page 1, delete line 11, and substitute the following:

"RECORDS; TO AMEND ARKANSAS CODE § 16-46-301, § 16-46-302, § 16-46-305, AND § 16-46-308 TO INCLUDE MEDICAL RECORDS FROM PHYSICIAN OFFICES AS SELF-AUTHENTICATING UNDER THE HOSPITAL RECORDS ACT, § 16-46-301 ET SEQ.; TO PROVIDE A REASONABLE FEE FOR COPYING MEDICAL RECORDS; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 14 through 16, and substitute the following:

"TO INCLUDE MEDICAL RECORDS FROM PHYSICIAN OFFICES AS SELF-AUTHENTICATING UNDER THE HOSPITAL RECORDS ACT AND TO PROVIDE A REASONABLE FEE FOR COPYING MEDICAL RECORDS."

AND

Delete everything after the enacting clause and substitute the following:

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

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

(2) Cost of each photocopy, excluding X rays, shall not exceed ~~one dollar (\$1.00)~~ fifty cents (.50) per page for the first ~~five (5)~~ twenty-five (25) pages and twenty-five cents (.25) for each additional page, ~~except~~



that the minimum charge shall be five dollars (\$5.00). A labor charge not exceeding fifteen dollars (\$15.00) may be added for each request for medical records under subdivision (a)(1) of this section and the actual cost of any required postage may also be charged.

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

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

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

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

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

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

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

SECTION 3. Arkansas Code § 16-46-302 is amended to read as follows:
16-46-302. Furnishing copies of records in compliance with subpoenas.

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

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

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

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

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

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

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

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

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

SECTION 5. Arkansas Code § 16-46-308 is amended to read as follows:

16-46-308. Substitution of copies for original records.

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

The Amendment was read _____

By: Representative Harrelson

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Chief Clerk