

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.

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

A Bill

HOUSE BILL 1688

4
5 By: Representative Thyer
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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 REQUESTED; TO PROVIDE THAT A PATIENT
13 MAY OBTAIN COPIES OF ANY MEDICAL RECORDS
14 FURNISHED TO A PARTY IN LITIGATION; TO ESTABLISH
15 GUIDELINES FOR USE OF MEDICAL RECORDS AT TRIAL;
16 AND FOR OTHER PURPOSES.

Subtitle

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

27 Subchapter 4 – Patient Medical Records Privacy Act

28 16-46-401. Title.

29 This subchapter shall be known and may be cited as the “Patient Medical
30 Records Privacy Act”.

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32 16-46-402. Definitions.

33 As used in this subchapter:

34 (1)(A) "Medical records" means hospital or clinic records,
35 physician records, or other health care records and includes an admitting
36 form, discharge summary, history and physical, progress notes, physicians’



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

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

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

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 13 16-46-403. Notice required.

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

18 (1) Patient; or

19 (2) Patient's attorney if the patient is represented by an
 20 attorney.

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

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

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

28
 29 16-46-404. Reproduction of medical records.

30 (a) A party in litigation shall furnish a copy of a patient's medical
 31 records received by the party in litigation to the patient or the patient's
 32 attorney, if the patient is represented by an attorney, upon payment of a
 33 reasonable copying charge.

34 (b) The copying charge authorized in subsection (a) of this section
 35 shall not exceed an amount determined under the provisions of § 16-46-106.

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1 16-46-405. Use of medical records at trial.

2 If notice is not given as required by § 16-46-403 or if medical records
3 are not reproduced as required by § 16-46-404, a party in litigation shall be
4 prohibited from introducing the patient's medical records into evidence or
5 referring to the patient's medical records in any manner in a legal
6 proceeding relating to the patient.

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