

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
4

As Engrossed: H2/21/05

A Bill

HOUSE BILL 1688

5 By: Representative Thyer
6
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 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.
17

Subtitle

18 AN ACT TO CREATE THE PATIENT MEDICAL
19 RECORDS PRIVACY ACT.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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”.

31
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 for use in any civil legal proceeding.

11
12 16-46-403. Notice required.

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

17 (1) Patient; or

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

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

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

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

27
28 16-46-404. Reproduction of medical records.

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

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

35
36 16-46-405. Use of medical records at trial.

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

6
7 16-46-406. Scope of subchapter.

8 This subchapter shall apply to private litigants in civil actions only
9 and shall not alter the rights, duties, or responsibilities of any person or
10 entity in any other type of legal proceeding.

11
12 /s/ Thyer
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36