

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 S3/22/05

A Bill

HOUSE BILL 1688

5 By: Representative Thyer
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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 RECEIVED OR OBTAINED; TO ESTABLISH*
13 GUIDELINES FOR USE OF MEDICAL RECORDS AT TRIAL;
14 AND FOR OTHER PURPOSES.
15

Subtitle

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

25 Subchapter 4 – Patient Medical Records Privacy Act

26 16-46-401. Title.

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

30 16-46-402. Definitions.

31 As used in this subchapter:

32 (1)(A) "Medical records" means hospital or clinic records,
33 physician records, or other health care records and includes an admitting
34 form, discharge summary, history and physical, progress notes, physicians’
35 orders, reports of operations, recovery room records, lab reports,
36 consultation reports, medication records, nurses’ notes, and other reports



1 catalogued and maintained by the medical records department of a hospital,
2 doctor's office, medical clinic, or any other medical facility.

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

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

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10 16-46-403. Notice required.

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

15 (1) Patient; or

16 (2) Patient's attorney if the patient is represented by an
17 attorney.

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

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

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

25 (c) The notice required by subsection (a) of this section shall
26 include the name and address of the provider for each record which was
27 obtained.

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29 16-46-404. Use of medical records at trial.

30 If notice is not given as required by § 16-46-403, a party in
31 litigation shall be prohibited from introducing the patient's medical records
32 into evidence or referring to the patient's medical records in any manner in
33 a legal proceeding relating to the patient.

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35 16-46-405. Scope of subchapter.

36 (a) This subchapter shall apply to private litigants in civil actions

1 only and shall not alter the rights, duties, or responsibilities of any
2 person or entity in any other type of legal proceeding, including, but not
3 limited to, actions under the Workers' Compensation Law, § 11-9-101 et seq.

4 (b) All provisions of this subchapter shall be subject to the Health
5 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

6 (c) Upon adoption of a Supreme Court rule which is substantially
7 similar to the provisions of this subchapter, this subchapter shall be deemed
8 superseded.

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10 /s/ Thyer
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