

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 861

4
5 By: Senator S. Harrelson
6

For An Act To Be Entitled

8 AN ACT REGARDING ACCESS TO MEDICAL RECORDS; AND FOR
9 OTHER PURPOSES.

Subtitle

12 REGARDING ACCESS TO MEDICAL RECORDS.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 16-46-106 is amended to read as follows:
19 16-46-106. Access to medical records.

20 (a)(1) In contemplation of, preparation for, or use in any legal
21 proceeding, ~~any~~ a person who is or has been a patient of a doctor, hospital,
22 ambulance provider, medical health care provider, or other medical
23 institution shall be entitled to obtain access, personally or by and through
24 his or her attorney, or if the person is deceased by a potential wrongful-
25 death beneficiary as designated by the Arkansas Wrongful Death Statute, § 16-
26 62-102, upon presentation of an affidavit of heirship from that wrongful-
27 death beneficiary, to the information in his or her medical records, upon
28 request and with written patient authorization, or if the person is deceased
29 by written authorization of the wrongful-death beneficiary requesting the
30 records, and shall be furnished copies of all medical records pertaining to
31 his or her case upon the tender of the expense of such copy or copies.

32 (2) If a patient is deceased, the records shall be released to
33 the first of the following individuals who exists at the time the records
34 request is made:

35 (A) The executor or administrator of the patient's estate;

36 (B) The patient's spouse;



1 would be detrimental, then it either will not be released or the
2 objectionable material will be obscured before release.

3 (4) The cost of this review of the patient's record will be
4 borne by the patient or the patient's guardian, wrongful-death beneficiary,
5 or attorney.

6 (c) Nothing in this section shall preclude the existing subpoena
7 process; however, if a patient is compelled to use the subpoena process in
8 order to obtain access to, or copies of, their own medical records after
9 reasonable requests have been made and a reasonable time has expired, then
10 the court issuing the subpoena and having jurisdiction over the proceedings
11 shall grant the patient a reasonable attorney's fee plus costs of court
12 against the doctor, hospital, or medical institution.

13 (d) This section does not apply to the Department of Correction.

14 (e) A doctor, a hospital, an ambulance provider, a medical health
15 provider, or other medical institution providing access to medical records in
16 good-faith reliance that the person given access is so authorized by this
17 section shall be immune from liability for providing access.

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