1 2	State of Arkansas 88th General Assembly	A Bill		
3	Regular Session, 2011		SENATE BILL 861	
4				
5	By: Senator S. Harrelson			
6				
7	For An Act To Be Entitled			
8	AN ACT RE	AN ACT REGARDING ACCESS TO MEDICAL RECORDS; AND FOR		
9	OTHER PURPOSES.			
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12		Subtitle		
13	REGA	ARDING ACCESS TO MEDICAL RECORDS.		
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16	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKAN	SAS:	
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18	SECTION 1. Ark	cansas Code § 16-46-106 is amended to re	ead as follows:	
19	16-46-106. Acc	ess to medical records.		
20	(a)(l) In cont	emplation of, preparation for, or use	in any legal	
21	proceeding, any <u>a</u> per	cson 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 poter	ntial wrongful-	
25	death beneficiary as	designated by the Arkansas Wrongful Des	ath Statute, § 16-	
26	62-102, upon presenta	ation of an affidavit of heirship from	that wrongful-	
27	death benficiary, to	the information in his or her medical	records, upon	
28	request and with writ	ten patient authorization, <u>or if the p</u> e	erson is deceased	
29	by written authorizat	ion of the wrongful-death beneficiary	requesting the	
30	records, and shall be	e furnished copies of all medical recor	ds pertaining to	
31	his or her case upon	the tender of the expense of such copy	or copies.	
32		a patient is deceased, the records sha		
33	the first of the foll	owing individuals who exists at the ti	me the records	
34	request is made:			
35	<u>(A)</u>	The executor or administrator of the	patient's estate;	
36	(B)	The patient's spouse;		

- 1 (C) A parent of the patient; 2 (D) An adult child of the patient; and 3 (E) An adult sibling of the patient. 4 (2)(3) Cost of each photocopy, excluding X rays, shall not 5 exceed fifty cents (.50¢) per page for the first twenty-five (25) pages and 6 twenty-five cents (.25¢) for each additional page. A labor charge not 7 exceeding fifteen dollars (\$15.00) may be added for each request for medical 8 records under subdivision (a)(1) of this section, and the actual cost of any 9 required postage may also be charged. 10 (3)(4) Provided, however, However, in the alternative to the 11 labor charge described in subdivision $\frac{(a)(2)}{(a)}$ (a)(3) of this section, a 12 reasonable retrieval fee for stored records of a hospital, a physician's 13 office, or an ambulance provider may be added to the photocopy charges, only 14 if the requested records are stored at a location other than the location of 15 the hospital, physician's office, or ambulance provider. 16 (4)(5) Provided, further, this This section shall does not 17 prohibit reasonable fees for narrative medical reports or medical review when 18 performed by the physician or medical institution subject to the request, but 19 only if a narrative medical report or medical review is requested by the 20 person or entity requesting the records. 21 (b)(1) If a doctor believes a patient should be denied access to his 22 or her medical records for any reason, the doctor must provide the patient or 23 the patient's guardian, wrongful-death beneficiary, or attorney a written 24 determination that disclosure of such information would be detrimental to the 25 individual's health or well-being. 26 (2)(A) At such that time, the patient or the patient's guardian, 27 wrongful-death beneficiary, or attorney may select another doctor in the same 28 type practice as the doctor subject to the request to review such the 29 information and determine if disclosure of such information would be 30 detrimental to the patient's health or well-being. 31
- 31 (B) If the second doctor determines, based upon 32 professional judgment, that disclosure of such the information would not be 33 detrimental to the health or well-being of the individual, the medical 34 records shall be released to the patient or the patient's guardian, wrongful-35 death beneficiary, or attorney.
 - (3) If the determination is that disclosure of such information

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- would be detrimental, then it either will not be released or the 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.
 - (c) Nothing in this section shall preclude the existing subpoena process; however, if a patient is compelled to use the subpoena process in order to obtain access to, or copies of, their own medical records after reasonable requests have been made and a reasonable time has expired, then the court issuing the subpoena and having jurisdiction over the proceedings shall grant the patient a reasonable attorney's fee plus costs of court against the doctor, hospital, or medical institution.
 - (d) This section does not apply to the Department of Correction.
 - (e) A doctor, a hospital, an ambulance provider, a medical health provider, or other medical institution providing access to medical records in good-faith reliance that the person given access is so authorized by this section shall be immune from liability for providing access.