

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: S3/11/15

# A Bill

SENATE BILL 150

5 By: Senator D. Johnson  
6

## For An Act To Be Entitled

8 AN ACT TO ALLOW PATIENTS TO RECEIVE THEIR MEDICAL  
9 RECORDS IN EITHER PAPER OR DIGITAL FORMATS; TO  
10 ESTABLISH A FEE FOR DIGITAL MEDICAL RECORDS; AND FOR  
11 OTHER PURPOSES.  
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### Subtitle

14 TO ALLOW PATIENTS TO RECEIVE THEIR  
15 MEDICAL RECORDS IN EITHER PAPER OR  
16 DIGITAL FORMATS; AND TO ESTABLISH A FEE  
17 FOR DIGITAL MEDICAL RECORDS.  
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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 20, Chapter 6 is amended to add an*  
24 *additional subchapter to read as follows:*

25 *Subchapter 2 – Requests for Medical Records*  
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27 *20-6-201. Definitions.*

28 *As used in this subchapter:*

29 *(1) “Healthcare provider” means an individual, entity, facility,*  
30 *or institution licensed, certified, or otherwise authorized by the law of*  
31 *this state to administer health care in the ordinary course of business or*  
32 *practice of a profession;*

33 *(2) “Medical record” means the healthcare and billing records*  
34 *about a patient maintained by or on behalf of a healthcare provider;*

35 *(3) “Patient” means the person who is the subject of a health*  
36 *record being requested; and*



1           (4) "Personal representative" means an individual who has  
2 authority under Arkansas law to act on behalf of a patient in making  
3 decisions related to health care.

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5           20-6-202. Applicability.

6           This subchapter applies only to requests for medical records submitted  
7 directly by a patient or the patient's personal representative to a  
8 healthcare provider.

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10          20-6-203. Patient right to access to medical record.

11          (a)(1) A patient has the right to access his or her own medical record  
12 either directly or through his or her personal representative.

13          (2) For purposes of this subchapter, a personal representative  
14 shall be given the same right of access as the patient to those portions of  
15 the medical record that relate to the personal representative's authority to  
16 act on behalf of the patient in making healthcare decisions.

17          (b) A patient may request that copies of his or her medical record be  
18 sent:

19               (1) Directly to the patient; or

20               (2) To a designated third party, if the request is:

21                       (A) Submitted in writing by the patient;

22                       (B) Signed by the patient; and

23                       (C) Clearly identifies the designated third party and the  
24 location to which the copy of the medical record is to be sent.

25          (c) The healthcare provider may provide the patient with a summary of  
26 the medical record requested in lieu of providing access to the medical  
27 record or may provide an explanation of the medical record to which access  
28 has been provided, if:

29               (1) The patient agrees in advance to receiving a summary or  
30 explanation of his or her medical record; and

31               (2) The patient agrees in advance to the fees imposed, if any,  
32 by the healthcare provider for the summary or explanation of his or her  
33 medical record.

34          (d)(1) A patient may request his or her medical record:

35               (A) In paper form; or

36               (B) If the record is available from the provider in

1 electronic form, in electronic form.

2 (2) Access to a medical record shall be provided by a healthcare  
3 provider according to the requirements of the patient access regulations  
4 promulgated under the Health Insurance Portability and Accountability Act of  
5 1996, 45 C.F.R. § 164.524.

6  
7 20-6-204. Fees.

8 (a) A healthcare provider may charge a patient or personal  
9 representative a reasonable, cost-based fee for copies of a patient's medical  
10 record.

11 (b) Subject to the limits under subsection (c) of this section, the  
12 reasonable cost-based fee may include only the cost of:

13 (1) Labor for copying the medical record requested by the  
14 patient, whether in paper or electronic form;

15 (2) Supplies for creating the paper copy or electronic media;

16 (3) Postage, if the individual has requested that the medical  
17 record be mailed; and

18 (4) Preparation of an explanation or summary of the medical  
19 record, if agreed to by the patient under § 20-6-203(c).

20 (c) The reasonable, cost-based fees assessed under subdivisions (b)(1)  
21 and (2) of this section shall not exceed:

22 (1) For a paper copy, the per-page charges set forth in § 16-46-  
23 106(a); or

24 (2) For a copy provided in electronic form, a total charge of  
25 twenty dollars (\$20.00).

26  
27 20-6-205. Construction.

28 (a) This subchapter does not apply to a request for a patient's  
29 records by:

30 (1) The patient's attorney, which shall be governed by § 16-46-  
31 106; or

32 (2) A person or entity other than the patient or the patient's  
33 personal representative.

34 (b) This subchapter does not apply to the Department of Correction or  
35 the Department of Community Correction.

36 (c) This subchapter is not intended to nor shall it be construed to

1 create a private right of action against a healthcare provider or an employee  
 2 or authorized agent of a healthcare provider.

3  
 4 SECTION 2. Arkansas Code § 16-46-106 is amended to read as follows:

5 16-46-106. Access to medical records.

6 (a)(1) In contemplation of, preparation for, or use in any legal  
 7 proceeding, any person who is or has been a patient of a ~~doctor~~ physician,  
 8 hospital, ambulance provider, medical health care provider, or other medical  
 9 institution ~~shall be~~ is entitled to obtain access, ~~personally or by and~~  
 10 through his or her attorney, to the information in his or her medical  
 11 records, upon request and with written patient authorization, and shall be  
 12 furnished copies of all medical records pertaining to his or her case upon  
 13 the tender of the expense of ~~such~~ the copy or copies.

14 (2)(A) Cost of each photocopy, excluding X rays, shall not  
 15 exceed fifty cents (.50¢) per page for the first twenty-five (25) pages and  
 16 twenty-five cents (.25¢) for each additional page.

17 (B)(i) A labor charge not exceeding fifteen dollars  
 18 (\$15.00) may be added for each request for medical records under subdivision  
 19 (a)(1) of this section, and the actual cost of any required postage may also  
 20 be charged.

21 ~~(3)(ii) Provided, however~~ However, in the  
 22 alternative to the labor charge described in subdivision (a)(2)(B)(i) of this  
 23 section, a reasonable retrieval fee for stored records of a hospital, a  
 24 physician's office, or an ambulance provider may be added to the photocopy  
 25 charges, only if the requested records are stored at a location other than  
 26 the location of the hospital, physician's office, or ambulance provider.

27 ~~(4)(3) Provided, further~~ However, this section ~~shall~~ does not  
 28 prohibit reasonable fees for narrative medical reports or medical review when  
 29 performed by the physician or medical institution subject to the request, but  
 30 only if a narrative medical report or medical review is requested by the  
 31 person or entity requesting the records.

32 (b)(1) If a ~~doctor~~ physician believes a patient should be denied  
 33 access to his or her medical records for any reason, the ~~doctor must~~  
 34 physician shall provide the patient or the patient's guardian or attorney a  
 35 written determination that disclosure of ~~such~~ the information would be  
 36 detrimental to the individual's health or well-being.

