1	State of Arkansas	As Engrossed: S3/11/15		
2	90th General Assembly	A Bill		
3	Regular Session, 2015		SENATE BILL 150	
4				
5	By: Senator D. Johnson			
6				
7		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 PUF	RPOSES.		
12				
13				
14		Subtitle		
15	TO A	ALLOW PATIENTS TO RECEIVE THEIR		
16	MED	ICAL RECORDS IN EITHER PAPER OR		
17	DIG	ITAL FORMATS; AND TO ESTABLISH A FE	Œ	
18	FOR	DIGITAL MEDICAL RECORDS.		
19				
20				
21	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF A	RKANSAS:	
22				
23	SECTION 1. Ark	kansas Code Title 20, Chapter 6 is	amended to add an	
24	additional subchapter	r to read as follows:		
25	<u>Sul</u>	<u> bchapter 2 — Requests for Medical R</u>	<u>ecords</u>	
26				
27	<u>20-6-201. De</u>	<u>finitions.</u>		
28	As used in this	s subchapter:		
29	<u>(1) "Hea</u>	althcare provider" means an individ	ual, entity, facility,	
30	or institution licens	sed, certified, or otherwise author	ized by the law of	
31	this state to adminis	ster health care in the ordinary co	urse of business or	
32	practice of a profess	sion;		
33	<u>(2) "Med</u>	dical record" means the healthcare	and billing records	
34	about a patient maintained by or on behalf of a healthcare provider;			
35	<u>(3) "Pat</u>	tient" means the person who is the	subject of a health	
36	record being requeste	ed; and		

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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.		
9			
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	<u>sent:</u>		
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)(l) 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		

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1	electronic form, in electronic form.		
2	(2) Access to a medical record shall be provided by a healthcar		
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	<u>record.</u>		
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	<u>106(a); or</u>		
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	<u>106; or</u>		
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		

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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 through his or her attorney, to the information in his or her medical 10 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)(l) If a doctor physician believes a patient should be denied access to his or her medical records for any reason, the doctor must 33 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

detrimental to the individual's health or well-being.

1	(2)(A) A <del>t such time</del> <u>It a physician provides a written</u>
2	determination under subdivision (b)(1) of this section, the patient or the
3	patient's guardian or attorney may select another doctor physician in the
4	same type practice as the doctor physician subject to the request to review
5	such the information and determine if disclosure of such the information
6	would be detrimental to the patient's health or well-being.
7	(B) If the second doctor physician determines, based upon
8	professional judgment, that disclosure of <del>such</del> <u>the</u> information would not be
9	detrimental to the health or well-being of the individual, the medical
10	records shall be released to the patient or the patient's guardian or
11	attorney.
12	(3) If the determination is that disclosure of such the
13	information would be detrimental, then it either $rac{will}{will}$ $rac{shall}{not}$ be released
14	or the objectionable material $rac{will}{shall}$ be obscured before release.
15	(4) The cost of this the review of the patient's record will be
16	borne by shall be charged to the patient or the patient's guardian or
17	attorney.
18	(c) $\underline{(l)}$ Nothing in this section shall The section does not preclude the
19	existing subpoena process;.
20	(2) however However, if a patient patient's attorney is
21	compelled to use the subpoena process in order to obtain access to, or copies
22	of, their own the patient's medical records under this section after
23	reasonable requests have been made and a reasonable time has expired, then
24	the court issuing the subpoena and having jurisdiction over the proceedings
25	shall grant the patient a reasonable attorney's fee plus costs of court
26	against the <del>doctor</del> physician, hospital, <u>ambulance provider, medical health</u>
27	provider, or other medical institution.
28	(d) This section does not apply to the Department of Correction or the
29	Department of Community Correction.
30	(e) This section does not apply to a request by a patient for the
31	patient's own records, which shall be governed by § 20-6-201 et seq.
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33	/s/D. Johnson
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