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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



# ENROLLED

SENATE BILL NO. 336

(By Senator Dumphy)



PASSED March 7 1992

In Effect 90 days from Passage

**ENROLLED**

**Senate Bill No. 336**

(BY SENATOR HUMPHREYS)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and two, article twenty-nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to health care records; and establishing a maximum ten dollar search fee for such records.

*Be it enacted by the Legislature of West Virginia:*

That sections one and two, article twenty-nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 29. HEALTH CARE RECORDS.**

**§16-29-1. Copies of health care records to be furnished to patients.**

1 Any licensed, certified or registered health care  
2 provider so licensed, certified or registered under the  
3 laws of this state shall, upon the written request of a  
4 patient, his authorized agent or authorized representa-  
5 tive, within a reasonable time, furnish a copy, as  
6 requested, of all or a portion of the patient's record to  
7 the patient, his authorized agent or authorized repre-  
8 sentative subject to the following exceptions:

9 (a) In the case of a patient receiving treatment for  
10 psychiatric or psychological problems, a summary of  
11 the record shall be made available to the patient, his  
12 authorized agent or authorized representative follow-  
13 ing termination of the treatment program.

14 (b) Nothing in this article shall be construed to  
15 require a health care provider responsible for diagno-  
16 sis, treatment or administering health care services in  
17 the case of minors for birth control, prenatal care,  
18 drug rehabilitation or related services or venereal  
19 disease according to any provision of this code, to  
20 release patient records of such diagnosis, treatment or  
21 provision of health care as aforesaid to a parent or  
22 guardian, without prior written consent therefor from  
23 the patient, nor shall anything in this article be  
24 construed to apply to persons regulated under the  
25 provisions of chapter eighteen of this code or the rules  
26 and regulations established thereunder.

27 (c) The furnishing of a copy, as requested, of the  
28 reports of X-ray examinations, electrocardiograms and  
29 other diagnostic procedures shall be deemed to comply  
30 with the provisions of this article: *Provided*, That  
31 original radiological study film from a radiological  
32 exam conducted pursuant to a request from a patient  
33 or patient's representative shall be provided to the  
34 patient or patient's representative upon written  
35 request and payment for the exam. The health care  
36 provider shall not be required to interpret or retain  
37 copies of the film and shall be immune from liability  
38 resulting from any action relating to the absence of  
39 the original radiological film from the patient's record.

40 (d) This article shall not apply to records subpoenaed  
41 or otherwise requested through court process.

42 (e) The provisions of this article may be enforced by  
43 a patient, authorized agent or authorized representa-  
44 tive, and any health care provider found to be in  
45 violation of this article shall pay any attorney fees and  
46 costs, including court costs incurred in the course of  
47 such enforcement.

48 (f) Nothing in this article shall be construed to apply

49 to health care records maintained by health care  
50 providers governed by the AIDS-related medical  
51 testing and records confidentiality act under the  
52 provisions of article three-c of this chapter.

**§16-29-2. Reasonable expenses to be reimbursed.**

1 The provider shall be reimbursed by the person  
2 requesting in writing a copy of such records at the  
3 time of delivery for all reasonable expenses incurred  
4 in complying with this article. However, such cost  
5 shall not exceed seventy-five cents per page for the  
6 copying of any such record or records which have  
7 already been reduced to written form and a search fee  
8 not to exceed ten dollars.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Somer Leck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Paul E. Malone*  
.....  
Clerk of the Senate

*Donald L. Kapp*  
.....  
Clerk of the House of Delegates

*Scott F. Fritzsche*  
.....  
President of the Senate

*Robert C. Bell*  
.....  
Speaker House of Delegates

The within ..... this the .....  
day of ....., 1992.

.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/92

Time 3:35 PM