WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED

SENATE BILL NO. 336

(By Senator Humphreys)

PASSED March 7, 1992
In Effect 90 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 provider so licensed, certified or registered under the laws of this state shall, upon the written request of a patient, his authorized agent or authorized representative, within a reasonable time, furnish a copy, as requested, of all or a portion of the patient’s record to the patient, his authorized agent or authorized representative subject to the following exceptions:
(a) In the case of a patient receiving treatment for psychiatric or psychological problems, a summary of the record shall be made available to the patient, his authorized agent or authorized representative following termination of the treatment program.

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

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

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

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

(f) Nothing in this article shall be construed to apply
to health care records maintained by health care providers governed by the AIDS-related medical testing and records confidentiality act under the 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 requesting in writing a copy of such records at the time of delivery for all reasonable expenses incurred in complying with this article. However, such cost shall not exceed seventy-five cents per page for the copying of any such record or records which have already been reduced to written form and a search fee not to exceed ten dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ....................this the ....................

day of ...................., 1992.

Governor