WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 4560

(By Delegates Manchin, Caputo, Longstreth, Skinner, Moore, Wells, M. Poling and Sponaugle)

Passed March 8, 2014
In effect ninety days from passage.
ENROLLED

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H. B. 4560

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[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating to reimbursement for copies of medical records; copies of medical records in electronic format; and limiting the reimbursement fee for electronic records.

Be it enacted by the Legislature of West Virginia:

That §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 29. HEALTH CARE RECORDS.

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

(a) 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 or her authorized
agent or authorized representative, within a reasonable time, furnish a copy, in the form of a paper copy or, if requested and if the provider routinely stores records electronically and has the ability to so provide, a copy in an electronic format including, but not limited to, a copy saved upon a computer disc, an electronically mailed copy or a copy saved upon a portable memory device of all or a portion of the patient's record to the patient, his or her authorized agent or authorized representative subject to the following exceptions:

(1) 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 or her authorized agent or authorized representative following termination of the treatment program.

(2) 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.

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

(d) 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.

(e) 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.

(a) A person requesting records from a provider shall place the request in writing and pay a reasonable, cost-based fee, at the time of delivery. Notwithstanding any other section of the code or rule, the fee shall be based on the provider's cost of: (1) Labor for copying the requested records if in paper, or for placing the records in electronic media; (2) supplies for creating the paper copy or electronic media; and (3) postage if the person requested that the records be mailed.

If a person requests or agrees to an explanation or summary of the records, the provider may charge a reasonable cost-based fee for the labor cost if preparing the explanation or the summary; for the supplies for creating the explanation or summary; and for the cost of postage, if the person requested that the records be mailed. If the records are stored with a third party or a third party responds to the request for records in paper or electronic media, the provider may charge additionally for the actual charges incurred from the third party.

(b) The labor for copying under this section shall not exceed twenty-five dollars per hour and shall be adjusted to reflect the consumer price index for medical care services such that the base amount shall be increased by the proportional consumer price index in effect as of October of the calendar year in which the request was made, rounded to the nearest dollar.
(c) Notwithstanding the provisions of subsection (a) of this section, a provider shall not impose a charge on an indigent person or his or her authorized representative if the medical records are necessary for the purpose of supporting a claim or appeal under any provisions of the Social Security Act, 42 U.S.C. §301 et seq. For purposes of this section, a person is considered indigent if he or she:

(1) Is represented by an organization or affiliated pro bono program that provides legal assistance to indigents; or

(2) Verifies on a medical records request and release form that the records are requested for purposes of supporting a Social Security claim or appeal and submits with the release form reasonable proof that the person is financially unable to pay full copying charges by reason of unemployment, disability, income below the federal poverty level, or receipt of state or federal income assistance.

(d) Any person requesting free copies of written medical records pursuant to the provisions of subsection (c) of this section is limited to one set of copies per provider. Any additional requests for the same records from the same provider shall be subject to the fee provisions of subsection (a).
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member - Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 28th day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2001

Time 10:45 AM