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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

HB4560

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.

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H. B. 4560

(BY DELEGATES MANCHIN, CAPUTO, LONGSTRETH,
SKINNER, MOORE, WELLS, M. POLING AND SPONAUGLE)

[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.

- 1 (a) Any licensed, certified or registered health care provider
- 2 so licensed, certified or registered under the laws of this state
- 3 shall, upon the written request of a patient, his or her authorized

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

13 (1) In the case of a patient receiving treatment for psychiatric
14 or psychological problems, a summary of the record shall be
15 made available to the patient, his or her authorized agent or
16 authorized representative following termination of the treatment
17 program.

18 (2) The furnishing of a copy, as requested, of the reports of
19 X-ray examinations, electrocardiograms and other diagnostic
20 procedures shall be deemed to comply with the provisions of this
21 article.

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

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

35 (d) The provisions of this article may be enforced by a
36 patient, authorized agent or authorized representative, and any

37 health care provider found to be in violation of this article shall
38 pay any attorney fees and costs, including court costs incurred in
39 the course of such enforcement.

40 (e) Nothing in this article shall be construed to apply to
41 health care records maintained by health care providers governed
42 by the AIDS-related Medical Testing and Records
43 Confidentiality Act under the provisions of article three-c of this
44 chapter.

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

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

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

18 (b) The labor for copying under this section shall not exceed
19 twenty-five dollars per hour and shall be adjusted to reflect the
20 consumer price index for medical care services such that the
21 base amount shall be increased by the proportional consumer
22 price index in effect as of October of the calendar year in which
23 the request was made, rounded to the nearest dollar.

24 (c) Notwithstanding the provisions of subsection (a) of this
25 section, a provider shall not impose a charge on an indigent
26 person or his or her authorized representative if the medical
27 records are necessary for the purpose of supporting a claim or
28 appeal under any provisions of the Social Security Act, 42
29 U.S.C. §301 et seq. For purposes of this section, a person is
30 considered indigent if he or she:

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

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

40 (d) Any person requesting free copies of written medical
41 records pursuant to the provisions of subsection (c) of this
42 section is limited to one set of copies per provider. Any
43 additional requests for the same records from the same provider
44 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.

Donny Wells

Chairman, House Committee

[Signature]
Member ~~Chairman~~, Senate Committee

Originating in the House.

In effect ninety days from passage.

Suzanne R. Soy

Clerk of the House of Delegates

Joseph M. Minard

Clerk of the Senate

Donald R. Jay

Speaker of the House of Delegates

Jeffery K. [Signature]

President of the Senate

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

Carl Roy Tomblin
Governor

PRESENTED TO THE GOVERNOR

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Time 10:45hr