

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Enrolled**

**Senate Bill 846**

BY SENATORS MARONEY, TARR, TAKUBO, WELD,  
AZINGER, RUCKER, MAYNARD, ROBERTS, STOLLINGS,  
UNGER, PLYMALE, AND PALUMBO

[Passed March 5, 2020; in effect from passage]

SB846

OFFICE OF THE CLERK  
WEST VIRGINIA  
SENATE

2020 MAR 25 PM 4:10

FILED

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Enrolled**

**Senate Bill 846**

OFFICE OF THE CLERK  
WEST VIRGINIA LEGISLATURE  
STATE HOUSE

2020 MAR 25 P 3:10

FILED

BY SENATORS MARONEY, TARR, TAKUBO, WELD,  
AZINGER, RUCKER, MAYNARD, ROBERTS, STOLLINGS,  
UNGER, PLYMALE, AND PALUMBO

[Passed March 5, 2020; in effect from passage]

1 AN ACT to amend and reenact §16-5B-16 of the Code of West Virginia, 1931, as amended,  
2 relating to requiring a hospital to publish notification prior to facility closure regarding  
3 patient medical records, including films; requiring publication to take place upon closure;  
4 requiring publication to take place upon change in location of patient medical records;  
5 providing time frame to respond to patient request for medical records; providing penalty;  
6 and providing effective date.

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

**§16-5B-16. Public notice regarding the closure of a licensed health care facility or hospital.**

1 (a) Any hospital, extended care facility operated in connection with a hospital, ambulatory  
2 health care facility, or ambulatory surgical facility freestanding or operated in connection with a  
3 hospital licensed in the State of West Virginia under this article that intends to terminate operations  
4 shall provide at least three weeks' notice of such intent to the public prior to the actual termination  
5 of operations. Pursuant to the provisions of §59-3-1 *et seq.* of this code, the hospital or facility  
6 shall cause a Class III legal advertisement to be published in all qualified newspapers of general  
7 circulation where the hospital or facility is geographically located and a notice shall be published  
8 on the facility's web page within the same time frame. The first publication of the Class III legal  
9 advertisement shall occur at least three weeks prior to the date the hospital or facility intends to  
10 terminate operations. The Class III legal advertisement shall include, but is not limited to, a  
11 statement, along with the specific or proximate date, that the hospital, extended care facility  
12 operated in connection with a hospital, ambulatory health care facility, or ambulatory surgical  
13 facility freestanding or operated in connection with a hospital, intends to terminate operations,  
14 and where medical records, including, but not limited to, all imaging studies may be obtained.

15 (b) Upon closure, the hospital or facility shall cause a Class III legal advertisement to be  
16 published in all qualified newspapers of general circulation where the hospital or facility is  
17 geographically located informing the public where medical records, including, but not limited to,

18 all imaging studies may be obtained. This notice shall include contact information. A notice shall  
19 also be placed on the facility web page.

20 (c) The hospital or facility shall respond to requests for medical records made pursuant to  
21 the publication requirements in this section within 30 days.

22 (d) A notification of any change in location of the patients' medical records shall be  
23 published in a newspaper of general circulation as set forth in subsection (a) of this section. The  
24 confidentiality of the medical records shall be maintained during storage.

25 (e) If the facility fails to produce the requested records within 30 days, a penalty of \$25 per  
26 day may be assessed by a court with jurisdiction.

27 (f) This section is effective retroactively to September 1, 2019, and continues in effect  
28 thereafter. The applicable penalties are only effective for requests for medical records made after  
29 the effective date of passage of this section.

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

*Mark Samuel*  
.....  
Chairman, Senate Committee

*Noel Caputo*  
.....  
Chairman, House Committee

Originated in the Senate.

In effect from passage.

*Joe Lanni*  
.....  
Clerk of the Senate

*Steve Harris*  
.....  
Clerk of the House of Delegates

*Nitch B. Carmichael*  
.....  
President of the Senate

*Legu Fendley*  
.....  
Speaker of the House of Delegates

OFFICE OF THE REGISTER  
SECRETARY OF STATE

2020 MAR 25 PM 4:10

FILED

The within is approved this the 25th  
Day of March, 2020.

*James P. Goyens*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 12 2020

Time 3:02pm