

As Reported by the House Health Committee

132nd General Assembly

Regular Session

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Sub. H. B. No. 172

Representative Schuring

Cosponsors: Representatives Antani, West

A BILL

To amend sections 3701.74 and 3701.741 of the 1
Revised Code to modify the laws governing access 2
to a patient's medical records. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3701.74 and 3701.741 of the 4
Revised Code be amended to read as follows: 5

Sec. 3701.74. (A) As used in this section and section 6
3701.741 of the Revised Code: 7

(1) "Additional medical data" means data to which all of 8
the following apply: 9

(a) It pertains to a patient's medical history, diagnosis, 10
prognosis, or medical condition. 11

(b) It is generated, maintained, and used by a health care 12
provider to make decisions about the patient's clinical care. 13

(c) It is in addition to the data that is part of the 14
patient's medical record. 15

(2) "Ambulatory care facility" means a facility that 16

provides medical, diagnostic, or surgical treatment to patients 17
who do not require hospitalization, including a dialysis center, 18
ambulatory surgical facility, cardiac catheterization facility, 19
diagnostic imaging center, extracorporeal shock wave lithotripsy 20
center, home health agency, inpatient hospice, birthing center, 21
radiation therapy center, emergency facility, and an urgent care 22
center. "Ambulatory care facility" does not include the private 23
office of a physician or dentist, whether the office is for an 24
individual or group practice. 25

~~(2)~~ (3) "Authorized person" means a person to whom a 26
patient has given written authorization to act on the patient's 27
behalf regarding the patient's medical record, the patient's 28
additional medical data, or both, including the patient's 29
attorney. 30

(4) "Chiropractor" means an individual licensed under 31
Chapter 4734. of the Revised Code to practice chiropractic. 32

~~(3)~~ (5) "Emergency facility" means a hospital emergency 33
department or any other facility that provides emergency medical 34
services. 35

~~(4)~~ (6) "Health care practitioner" means all of the 36
following: 37

(a) A dentist or dental hygienist licensed under Chapter 38
4715. of the Revised Code; 39

(b) A registered or licensed practical nurse licensed 40
under Chapter 4723. of the Revised Code; 41

(c) An optometrist licensed under Chapter 4725. of the 42
Revised Code; 43

(d) A dispensing optician, spectacle dispensing optician, 44

contact lens dispensing optician, or spectacle-contact lens	45
dispensing optician licensed under Chapter 4725. of the Revised	46
Code;	47
(e) A pharmacist licensed under Chapter 4729. of the	48
Revised Code;	49
(f) A physician;	50
(g) A physician assistant authorized under Chapter 4730.	51
of the Revised Code to practice as a physician assistant;	52
(h) A practitioner of a limited branch of medicine issued	53
a certificate under Chapter 4731. of the Revised Code;	54
(i) A psychologist licensed under Chapter 4732. of the	55
Revised Code;	56
(j) A chiropractor;	57
(k) A hearing aid dealer or fitter licensed under Chapter	58
4747. of the Revised Code;	59
(l) A speech-language pathologist or audiologist licensed	60
under Chapter 4753. of the Revised Code;	61
(m) An occupational therapist or occupational therapy	62
assistant licensed under Chapter 4755. of the Revised Code;	63
(n) A physical therapist or physical therapy assistant	64
licensed under Chapter 4755. of the Revised Code;	65
(o) A licensed professional clinical counselor, licensed	66
professional counselor, social worker, independent social	67
worker, independent marriage and family therapist, or marriage	68
and family therapist licensed, or a social work assistant	69
registered, under Chapter 4757. of the Revised Code;	70
(p) A dietitian licensed under Chapter 4759. of the	71

Revised Code;	72
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	73 74
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	75 76 77 78
(5) (7) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	79 80 81
(6) (8) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	82 83
(7) (9) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.	84 85 86 87 88 89 90 91 92 93 94
(8) (10) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained <u>designated by a health care provider in the process of, acting in accordance with state and federal law and relevant accreditation standards, as the record of the patient's health-</u>	95 96 97 98 99 100

clinical care ~~treatment~~. 101

~~(9)~~ (11) "Medical records company" means a person who 102
stores, locates, or copies medical records, additional medical 103
data, or both for a health care provider, or is compensated for 104
doing so by a health care provider, and charges a fee for 105
providing medical records, additional medical data, or both to a 106
patient or patient's representative. 107

~~(10)~~ (12) "Patient" means either of the following: 108

(a) An individual who received health care treatment from 109
a health care provider; 110

(b) A guardian, as defined in section 1337.11 of the 111
Revised Code, of an individual described in division ~~(A)(10)(a)~~ 112
(A)(12)(a) of this section. 113

~~(11)~~ (13) "Patient's personal representative" means a 114
minor patient's parent or other person acting in loco parentis, 115
a court-appointed guardian, or a person with durable power of 116
attorney for health care for a patient, the executor or 117
administrator of the patient's estate, or the person responsible 118
for the patient's estate if it is not to be probated. "Patient's 119
personal representative" does not include an insurer authorized 120
under Title XXXIX of the Revised Code to do the business of 121
sickness and accident insurance in this state, a health insuring 122
corporation holding a certificate of authority under Chapter 123
1751. of the Revised Code, or any other person not named in this 124
division. 125

~~(12)~~ (14) "Pharmacy" has the same meaning as in section 126
4729.01 of the Revised Code. 127

~~(13)~~ (15) "Physician" means a person authorized under 128
Chapter 4731. of the Revised Code to practice medicine and 129

surgery, osteopathic medicine and surgery, or podiatric medicine 130
and surgery. 131

~~(14) "Authorized person" means a person to whom a patient~~ 132
~~has given written authorization to act on the patient's behalf~~ 133
~~regarding the patient's medical record.~~ (16) "Requested 134
information" means whichever of the following information is 135
requested: 136

(a) A patient's medical record; 137

(b) A patient's additional medical data; 138

(c) A patient's medical record and additional medical 139
data. 140

(B) A patient, a patient's personal representative, or an 141
authorized person who wishes to examine or obtain a copy of part 142
or all of ~~a~~ the patient's medical record, the patient's 143
additional medical data, or both shall submit to the health care 144
provider a written request signed by the patient, personal 145
representative, or authorized person dated not more than one 146
year before the date on which it is submitted. The request shall 147
indicate whether only the patient's medical record is requested, 148
only the patient's additional medical data is requested, or both 149
are requested. The request also shall indicate whether the ~~copy~~ 150
requested information is to be sent to the requestor, physician 151
or chiropractor, or held for the requestor at the office of the 152
health care provider. Within a reasonable time after receiving a 153
request that meets the requirements of this division and 154
includes sufficient information to identify the ~~record~~ requested 155
information, a health care provider that has the patient's 156
~~medical records~~ requested information shall permit the patient 157
to examine the ~~record~~ requested information during regular 158

business hours without charge or, on request, shall provide a 159
copy of the ~~record~~requested information in accordance with 160
section 3701.741 of the Revised Code, except that if a 161
physician, psychologist, licensed professional clinical 162
counselor, licensed professional counselor, independent social 163
worker, social worker, independent marriage and family 164
therapist, marriage and family therapist, or chiropractor who 165
has treated the patient determines for clearly stated treatment 166
reasons that disclosure of the requested ~~record~~information is 167
likely to have an adverse effect on the patient, the health care 168
provider shall provide the ~~record~~requested information to a 169
physician, psychologist, licensed professional clinical 170
counselor, licensed professional counselor, independent social 171
worker, social worker, independent marriage and family 172
therapist, marriage and family therapist, or chiropractor 173
designated by the patient. The health care provider shall take 174
reasonable steps to establish the identity of the person making 175
the request to examine or obtain a copy of the patient's 176
~~record~~requested information. 177

(C) If a health care provider fails to furnish a ~~medical~~ 178
~~record~~patient's requested information as required by division 179
(B) of this section, the patient, personal representative, or 180
authorized person who requested the record may bring a civil 181
action to enforce the patient's right of access to the 182
~~record~~requested information. 183

(D) (1) This section does not apply to medical records or 184
additional medical data whose release is covered by section 185
173.20 or 3721.13 of the Revised Code, by Chapter 1347., 5119., 186
or 5122. of the Revised Code, by 42 C.F.R. part 2, 187
"Confidentiality of Alcohol and Drug Abuse Patient Records," or 188
by 42 C.F.R. 483.10. 189

(2) Nothing in this section is intended to supersede the 190
confidentiality provisions of sections 2305.24, 2305.25, 191
2305.251, and 2305.252 of the Revised Code. 192

(3) This section does not limit any of the information 193
that must be provided by a health care provider if the 194
information is sought during the course of a civil action. 195

Sec. 3701.741. (A) Each health care provider and medical 196
records company shall provide copies of medical records and 197
additional medical data in accordance with this section. 198

(B) Except as provided in divisions (C) and (E) of this 199
section, a health care provider or medical records company that 200
receives a request for a copy of a patient's medical record, a 201
patient's additional medical data, or both shall charge not more 202
than the amounts set forth in this section. 203

(1) If the request is made by the patient or the patient's 204
personal representative, total costs for copies and all services 205
related to those copies shall not exceed the sum of the 206
following: 207

(a) Except as provided in division (B)(1)(b) of this 208
section, with respect to data recorded on paper or 209
electronically, the following amounts adjusted in accordance 210
with section 3701.742 of the Revised Code: 211

(i) Two dollars and seventy-four cents per page for the 212
first ten pages; 213

(ii) Fifty-seven cents per page for pages eleven through 214
fifty; 215

(iii) Twenty-three cents per page for pages fifty-one and 216
higher; 217

(b) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;	218 219 220 221
(c) The actual cost of any related postage incurred by the health care provider or medical records company.	222 223
(2) If the request is made other than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:	224 225 226 227
(a) An initial fee of sixteen dollars and eighty-four cents adjusted in accordance with section 3701.742 of the Revised Code, which shall compensate for the records <u>search of the requested information</u> ;	228 229 230 231
(b) Except as provided in division (B) (2) (c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:	232 233 234 235
(i) One dollar and eleven cents per page for the first ten pages;	236 237
(ii) Fifty-seven cents per page for pages eleven through fifty;	238 239
(iii) Twenty-three cents per page for pages fifty-one and higher.	240 241
(c) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;	242 243 244 245

(d) The actual cost of any related postage incurred by the health care provider or medical records company.	246 247
(C) (1) On request, a health care provider or medical records company shall provide one copy of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided, without charge to the following:	248 249 250 251 252
(a) The bureau of workers' compensation, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;	253 254 255
(b) The industrial commission, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;	256 257 258
(c) The department of medicaid or a county department of job and family services, in accordance with Chapters 5160., 5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the Revised Code and the rules adopted under those chapters;	259 260 261 262
(d) The attorney general, in accordance with sections 2743.51 to 2743.72 of the Revised Code and any rules that may be adopted under those sections;	263 264 265
(e) A patient, patient's personal representative, or authorized person if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the request is accompanied by documentation that a claim has been filed.	266 267 268 269 270 271
(2) Nothing in division (C) (1) of this section requires a health care provider or medical records company to provide a copy without charge to any person or entity not listed in	272 273 274

division (C) (1) of this section.	275
(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of medicaid.	276 277 278
(E) A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records <u>and additional medical data</u> at a fee other than as provided in division (B) of this section:	279 280 281 282
(1) A patient, a patient's personal representative, or an authorized person;	283 284
(2) An insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.	285 286 287 288
(F) This section does not apply to medical records <u>or additional medical data</u> the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10.	289 290 291
Section 2. That existing sections 3701.74 and 3701.741 of the Revised Code are hereby repealed.	292 293
Section 3. Section 3701.74 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.	294 295 296 297 298 299 300 301 302