



Rep. Dan Brady

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LRB097 18829 CEL 69831 a

1 AMENDMENT TO SENATE BILL 3171

2 AMENDMENT NO. _____. Amend Senate Bill 3171 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 8-2001 and 8-2001.5 as follows:

6 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)

7 Sec. 8-2001. Examination of health care records.

8 (a) In this Section:

9 "Health care facility" or "facility" means a public or
10 private hospital, ambulatory surgical treatment center,
11 nursing home, independent practice association, or physician
12 hospital organization, or any other entity where health care
13 services are provided to any person. The term does not include
14 a health care practitioner.

15 "Health care practitioner" means any health care
16 practitioner, including a physician, dentist, podiatrist,

1 advanced practice nurse, physician assistant, clinical
2 psychologist, or clinical social worker. The term includes a
3 medical office, health care clinic, health department, group
4 practice, and any other organizational structure for a licensed
5 professional to provide health care services. The term does not
6 include a health care facility.

7 (b) Every private and public health care facility shall,
8 upon the request of any patient who has been treated in such
9 health care facility, or any person, entity, or organization
10 presenting a valid authorization for the release of records
11 signed by the patient or the patient's legally authorized
12 representative, or as authorized by Section 8-2001.5, permit
13 the patient, his or her health care practitioner, authorized
14 attorney, or any person, entity, or organization presenting a
15 valid authorization for the release of records signed by the
16 patient or the patient's legally authorized representative to
17 examine the health care facility patient care records,
18 including but not limited to the history, bedside notes,
19 charts, pictures and plates, kept in connection with the
20 treatment of such patient, and permit copies of such records to
21 be made by him or her or his or her health care practitioner or
22 authorized attorney.

23 (c) Every health care practitioner shall, upon the request
24 of any patient who has been treated by the health care
25 practitioner, or any person, entity, or organization
26 presenting a valid authorization for the release of records

1 signed by the patient or the patient's legally authorized
2 representative, permit the patient and the patient's health
3 care practitioner or authorized attorney, or any person,
4 entity, or organization presenting a valid authorization for
5 the release of records signed by the patient or the patient's
6 legally authorized representative, to examine and copy the
7 patient's records, including but not limited to those relating
8 to the diagnosis, treatment, prognosis, history, charts,
9 pictures and plates, kept in connection with the treatment of
10 such patient.

11 (d) A request for copies of the records shall be in writing
12 and shall be delivered to the administrator or manager of such
13 health care facility or to the health care practitioner. The
14 person (including patients, health care practitioners and
15 attorneys) requesting copies of records shall reimburse the
16 facility or the health care practitioner at the time of such
17 copying for all reasonable expenses, including the costs of
18 independent copy service companies, incurred in connection
19 with such copying not to exceed a \$20 handling charge for
20 processing the request and the actual postage or shipping
21 charge, if any, plus: (1) for paper copies 75 cents per page
22 for the first through 25th pages, 50 cents per page for the
23 26th through 50th pages, and 25 cents per page for all pages in
24 excess of 50 (except that the charge shall not exceed \$1.25 per
25 page for any copies made from microfiche or microfilm; records
26 retrieved from scanning, digital imaging, electronic

1 information or other digital format do not qualify as
2 microfiche or microfilm retrieval for purposes of calculating
3 charges); and (2) for electronic records, retrieved from a
4 scanning, digital imaging, electronic information or other
5 digital format in a electronic document, a charge of 50% of the
6 per page charge for paper copies under subdivision (d) (1). This
7 per page charge includes the cost of each CD Rom, DVD, or other
8 storage media. Records already maintained in an electronic or
9 digital format shall be provided in an electronic format when
10 so requested. If the records system does not allow for the
11 creation or transmission of an electronic or digital record,
12 then the facility or practitioner shall inform the requester in
13 writing of the reason the records can not be provided
14 electronically. The written explanation may be included with
15 the production of paper copies, if the requester chooses to
16 order paper copies. These rates shall be automatically adjusted
17 as set forth in Section 8-2006. The facility or health care
18 practitioner may, however, charge for the reasonable cost of
19 all duplication of record material or information that cannot
20 routinely be copied or duplicated on a standard commercial
21 photocopy machine such as x-ray films or pictures.

22 (d-5) The handling fee shall not be collected from the
23 patient or the patient's personal representative who obtains
24 copies of records under Section 8-2001.5.

25 (e) The requirements of this Section shall be satisfied
26 within 30 days of the receipt of a written request by a patient

1 or by his or her legally authorized representative, health care
2 practitioner, authorized attorney, or any person, entity, or
3 organization presenting a valid authorization for the release
4 of records signed by the patient or the patient's legally
5 authorized representative. If the facility or health care
6 practitioner needs more time to comply with the request, then
7 within 30 days after receiving the request, the facility or
8 health care practitioner must provide the requesting party with
9 a written statement of the reasons for the delay and the date
10 by which the requested information will be provided. In any
11 event, the facility or health care practitioner must provide
12 the requested information no later than 60 days after receiving
13 the request.

14 (f) A health care facility or health care practitioner must
15 provide the public with at least 30 days prior notice of the
16 closure of the facility or the health care practitioner's
17 practice. The notice must include an explanation of how copies
18 of the facility's records may be accessed by patients. The
19 notice may be given by publication in a newspaper of general
20 circulation in the area in which the health care facility or
21 health care practitioner is located.

22 (g) Failure to comply with the time limit requirement of
23 this Section shall subject the denying party to expenses and
24 reasonable attorneys' fees incurred in connection with any
25 court ordered enforcement of the provisions of this Section.

26 (Source: P.A. 97-623, eff. 11-23-11.)

1 (735 ILCS 5/8-2001.5)

2 Sec. 8-2001.5. Authorization for release of a deceased
3 patient's records.

4 (a) In addition to disclosure allowed under Section 8-802,
5 a deceased person's health care records must ~~may~~ be released
6 upon written request of the executor or administrator of the
7 deceased person's estate or to an agent appointed by the
8 deceased under a power of attorney for health care. When no
9 executor, administrator, or agent exists, and the person did
10 not specifically object to disclosure of his or her records in
11 writing, then a deceased person's health care records must ~~may~~
12 be released upon the written request of a person, who is
13 considered to be a personal representative of the patient for
14 the purpose of the release of a deceased patient's health care
15 records, in one of these categories:

16 (1) the deceased person's surviving spouse; or

17 (2) if there is no surviving spouse, any one or more of
18 the following: (i) an adult son or daughter of the
19 deceased, (ii) a parent of the deceased, or (iii) an adult
20 brother or sister of the deceased.

21 (b) Health care facilities and practitioners are
22 authorized to provide a copy of a deceased patient's records
23 based upon a person's payment of the statutory fee and signed
24 "Authorized Relative Certification", attesting to the fact
25 that the person is authorized to receive such records under

1 this Section.

2 (c) Any person who, in good faith, relies on a copy of an
3 Authorized Relative Certification shall have the same
4 immunities from criminal and civil liability as those who rely
5 on a power of attorney for health care as provided by Illinois
6 law.

7 (d) Upon request for records of a deceased patient, the
8 named authorized relative shall provide the facility or
9 practitioner with a certified copy of the death certificate and
10 a certification in substantially the following form:

11 AUTHORIZED RELATIVE CERTIFICATION

12 I, (insert name of authorized relative), certify that I am
13 an authorized relative of the deceased (insert name of
14 deceased). (A certified copy of the death certificate must be
15 attached.)

16 I certify that to the best of my knowledge and belief that
17 no executor or administrator has been appointed for the
18 deceased's estate, that no agent was authorized to act for the
19 deceased under a power of attorney for health care, and the
20 deceased has not specifically objected to disclosure in
21 writing.

22 I certify that I am the surviving spouse of the deceased;

1 or

2 I certify that there is no surviving spouse and my
3 relationship to the deceased is (circle one):

4 (1) An adult son or daughter of the deceased.

5 (2) Either parent of the deceased.

6 (3) An adult brother or sister of the deceased.

7 I certify that I am seeking the records as a personal
8 representative who is acting in a representative capacity and
9 who is authorized to seek these records under Section 8-2001.5
10 of the Code of Civil Procedure.

11 This certification is made under penalty of perjury.*

12 Dated: (insert date)

13

14 (Print Authorized Relative's Name)

15

16 (Authorized Relative's Signature)

17

18 (Authorized Relative's Address)

19 * (Note: Perjury is defined in Section 32-2 of the Criminal Code
20 of 1961, and is a Class 3 felony.)

1 (Source: P.A. 97-623, eff. 11-23-11.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".