

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by changing Sections 8-802 and 8-2001 and by adding Section 8-2001.5 as follows:

(735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

Sec. 8-802. Physician and patient. No physician or surgeon shall be permitted to disclose any information he or she may have acquired in attending any patient in a professional character, necessary to enable him or her professionally to serve the patient, except only (1) in trials for homicide when the disclosure relates directly to the fact or immediate circumstances of the homicide, (2) in actions, civil or criminal, against the physician for malpractice, (3) with the expressed consent of the patient, or in case of his or her death or disability, of his or her personal representative or other person authorized to sue for personal injury or of the beneficiary of an insurance policy on his or her life, health, or physical condition, or as authorized by Section 8-2001.5, (4) in all actions brought by or against the patient, his or her personal representative, a beneficiary under a policy of insurance, or the executor or administrator of his or her

estate wherein the patient's physical or mental condition is an issue, (5) upon an issue as to the validity of a document as a will of the patient, (6) in any criminal action where the charge is either first degree murder by abortion, attempted abortion or abortion, (7) in actions, civil or criminal, arising from the filing of a report in compliance with the Abused and Neglected Child Reporting Act, (8) to any department, agency, institution or facility which has custody of the patient pursuant to State statute or any court order of commitment, (9) in prosecutions where written results of blood alcohol tests are admissible pursuant to Section 11-501.4 of the Illinois Vehicle Code, (10) in prosecutions where written results of blood alcohol tests are admissible under Section 5-11a of the Boat Registration and Safety Act, (11) in criminal actions arising from the filing of a report of suspected terrorist offense in compliance with Section 29D-10(p)(7) of the Criminal Code of 1961, or (12) upon the issuance of a subpoena pursuant to Section 38 of the Medical Practice Act of 1987; the issuance of a subpoena pursuant to Section 25.1 of the Illinois Dental Practice Act; or the issuance of a subpoena pursuant to Section 22 of the Nursing Home Administrators Licensing and Disciplinary Act.

In the event of a conflict between the application of this Section and the Mental Health and Developmental Disabilities Confidentiality Act to a specific situation, the provisions of the Mental Health and Developmental Disabilities

Confidentiality Act shall control.

(Source: P.A. 95-478, eff. 8-27-07.)

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

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

(a) In this Section:

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

"Health care practitioner" means any health care practitioner, including a physician, dentist, podiatrist, advanced practice nurse, physician assistant, clinical psychologist, or clinical social worker. The term includes a medical office, health care clinic, health department, group practice, and any other organizational structure for a licensed professional to provide health care services. The term does not include a health care facility.

(b) Every private and public health care facility shall, upon the request of any patient who has been treated in such health care facility, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, or as authorized by Section 8-2001.5, permit

the patient, his or her health care practitioner, authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative to examine the health care facility patient care records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her health care practitioner or authorized attorney.

(c) Every health care practitioner shall, upon the request of any patient who has been treated by the health care practitioner, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, permit the patient and the patient's health care practitioner or authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, to examine and copy the patient's records, including but not limited to those relating to the diagnosis, treatment, prognosis, history, charts, pictures and plates, kept in connection with the treatment of such patient.

(d) A request for copies of the records shall be in writing and shall be delivered to the administrator or manager of such

health care facility or to the health care practitioner. The person (including patients, health care practitioners and attorneys) requesting copies of records shall reimburse the facility or the health care practitioner at the time of such copying for all reasonable expenses, including the costs of independent copy service companies, incurred in connection with such copying not to exceed a \$20 handling charge for processing the request and the actual postage or shipping charge, if any, plus: (1) for paper copies 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed \$1.25 per page for any copies made from microfiche or microfilm; records retrieved from scanning, digital imaging, electronic information or other digital format do not qualify as microfiche or microfilm retrieval for purposes of calculating charges); and (2) for electronic records, retrieved from a scanning, digital imaging, electronic information or other digital format in a electronic document, a charge of 50% of the per page charge for paper copies under subdivision (d) (1). This per page charge includes the cost of each CD Rom, DVD, or other storage media. Records already maintained in an electronic or digital format shall be provided in an electronic format when so requested. If the records system does not allow for the creation or transmission of an electronic or digital record, then the facility or practitioner shall inform the requester in

writing of the reason the records can not be provided electronically. The written explanation may be included with the production of paper copies, if the requester chooses to order paper copies. These rates shall be automatically adjusted as set forth in Section 8-2006. The facility or health care practitioner may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures.

(e) The requirements of this Section shall be satisfied within 30 days of the receipt of a written request by a patient or by his or her legally authorized representative, health care practitioner, authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative. If the facility or health care practitioner needs more time to comply with the request, then within 30 days after receiving the request, the facility or health care practitioner must provide the requesting party with a written statement of the reasons for the delay and the date by which the requested information will be provided. In any event, the facility or health care practitioner must provide the requested information no later than 60 days after receiving the request.

(f) A health care facility or health care practitioner must provide the public with at least 30 days prior notice of the

closure of the facility or the health care practitioner's practice. The notice must include an explanation of how copies of the facility's records may be accessed by patients. The notice may be given by publication in a newspaper of general circulation in the area in which the health care facility or health care practitioner is located.

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

(Source: P.A. 94-155, eff. 1-1-06; 95-478, eff. 1-1-08 (changed from 8-27-07 by P.A. 95-480); 95-480, eff. 1-1-08.)

(735 ILCS 5/8-2001.5 new)

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

(a) In addition to disclosure allowed under Section 8-802, a deceased person's health care records may be released upon written request of the executor or administrator of the deceased person's estate or to an agent appointed by the deceased under a power of attorney for health care. When no executor, administrator, or agent exists, and the person did not specifically object to disclosure of his or her records in writing, then a deceased person's health care records may be released upon the written request of:

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

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

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

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

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

AUTHORIZED RELATIVE CERTIFICATION

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

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

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

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

- (1) An adult son or daughter of the deceased.
- (2) Either parent of the deceased.
- (3) An adult brother or sister of the deceased.

This certification is made under penalty of perjury.*

Dated: (insert date)

.....

(Print Authorized Relative's Name)

.....

(Authorized Relative's Signature)

.....

(Authorized Relative's Address)

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

Section 10. The Illinois Power of Attorney Act is amended by changing Section 4-3 as follows:

(755 ILCS 45/4-3) (from Ch. 110 1/2, par. 804-3)

Sec. 4-3. General principles. The health care powers that may be delegated to an agent include, without limitation, all powers an individual may have to be informed about and to consent to or refuse or withdraw any type of health care for the individual and all powers a parent may have to control or consent to health care for a minor child. A health care agency may extend beyond the principal's death if necessary to permit anatomical gift, autopsy, ~~or~~ disposition of remains, or access to medical records. Nothing in this Article shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining or death-delaying procedures in any lawful manner, and the provisions of this Article are cumulative in such respect.

(Source: P.A. 85-701.)

Section 99. Effective date. This Act takes effect October 1, 2011.