



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3077

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-2001

from Ch. 110, par. 8-2001

Amends the Inspection of Records Article of the Code of Civil Procedure. Expands the definitions of "health care facility" and "health care practitioner" to include entities that contract to provide copies of protected health information. Defines "patient", "patient's representative", and "protected health information". Changes references to "health care records" to "protected health information". Makes changes concerning who may be granted access to a patient's protected health information and the charges for copies of protected health information. Provides that a health care facility or health care practitioner shall provide the patient or patient's representative with access to the protected health information in the form and format requested. Deletes language providing for a \$20 handling charge for processing a request for protected health information in a paper copy. Provides that each health care facility and health care provider shall adopt policies for the examination of protected health information that meets certain requirements. Provides that a health care facility or health care practitioner shall provide without charge one copy of a patient's protected health information for the purpose of supporting a claim for disability or medical assistance benefits. Effective immediately.

LRB101 08702 LNS 53787 b

1 AN ACT concerning civil law.

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

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

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

7 Sec. 8-2001. Examination of protected health information  
8 ~~health care records.~~

9 (a) In this Section:

10 "Health care facility" or "facility" means a public or  
11 private hospital, ambulatory surgical treatment center,  
12 nursing home, independent practice association, or physician  
13 hospital organization, or any other entity where health care  
14 services are provided to any person. The term does not include  
15 a health care practitioner. "Health care facility" or  
16 "facility" includes any entity that contracts with a health  
17 care facility to provide copies of protected health information  
18 to third parties.

19 "Health care practitioner" means any health care  
20 practitioner, including a physician, dentist, podiatric  
21 physician, advanced practice registered nurse, physician  
22 assistant, clinical psychologist, or clinical social worker.  
23 The term includes a medical office, health care clinic, health

1 department, group practice, and any other organizational  
2 structure for a licensed professional to provide health care  
3 services. The term does not include a health care facility.  
4 "Health care practitioner" includes any entity that contracts  
5 with a health care practitioner to provide copies of protected  
6 health information to third parties.

7 "Patient" means any person who has been treated in a health  
8 care facility or by a health care practitioner.

9 "Patient's representative" means the patient's legally  
10 authorized representative, or any person, entity, or  
11 organization presenting a valid authorization for the release  
12 of records signed by the patient or the patient's legally  
13 authorized representative.

14 "Protected health information" has the meaning ascribed to  
15 it under HIPAA, as specified in 45 CFR 160.103, and includes  
16 diagnosis, treatment, prognosis, history, bedside notes,  
17 charts, pictures, and plates kept in connection with the  
18 treatment of the patient.

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

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

11 (c) Every health care practitioner shall, upon the request  
12 of any patient who has been treated by the health care  
13 practitioner, or any ~~person, entity, or organization~~  
14 ~~presenting a valid authorization for the release of records~~  
15 ~~signed by the patient or the patient's legally authorized~~  
16 representative, permit the patient and the patient's health  
17 care practitioner or ~~authorized attorney, or any person,~~  
18 ~~entity, or organization presenting a valid authorization for~~  
19 ~~the release of records signed by the patient or the patient's~~  
20 ~~legally authorized representative,~~ to examine and copy the  
21 patient's protected health information ~~records, including but~~  
22 ~~not limited to those relating to the diagnosis, treatment,~~  
23 ~~prognosis, history, charts, pictures and plates,~~ kept in  
24 connection with the treatment of such patient.

25 (d) (1) A request for copies of the protected health  
26 information ~~records~~ shall be in writing and shall be delivered

1 to the administrator or manager of such health care facility or  
2 to the health care practitioner as provided by the health care  
3 facility or health care practitioner pursuant to subsection  
4 (d-1).

5 (2) The health care facility or health care practitioner  
6 shall provide the patient or patient's representative with  
7 access to the protected health information in the form and  
8 format requested by the patient or patient's representative, if  
9 such information is readily producible in such form and format,  
10 or, if not, in a readable hard copy form or such other form and  
11 format as agreed to by the health care facility or health care  
12 practitioner and the patient or patient's representative.

13 (3) Notwithstanding paragraph (2), if the protected health  
14 information that is subject to the request for access is  
15 maintained in one or more designated record sets electronically  
16 and if the patient or patient's representative requests an  
17 electronic record, the health care facility or health care  
18 practitioner shall provide the patient or patient's  
19 representative with access to the protected health information  
20 in the electronic form and format requested by the individual,  
21 if it is readily producible in such form and format, or, if  
22 not, in a readable electronic form and format as agreed to by  
23 the health care facility or health care practitioner and the  
24 patient or patient's representative.

25 (4) If protected health information that is maintained  
26 electronically by the health care provider or health care

1 practitioner is delivered to the patient or patient's  
2 representative in an electronic format, the patient or  
3 patient's representative requesting protected health  
4 information shall reimburse the health care facility or health  
5 care practitioner a reasonable, cost-based fee that includes  
6 only: (A) labor for copying the protected health information  
7 requested by the individual; (B) supplies for creating the  
8 electronic copy if the individual requests that the electronic  
9 copy be provided on portable media; and (C) postage if the  
10 patient or patient's representative has requested that the copy  
11 be mailed. Reasonable costs may not exceed \$6.50 exclusive of  
12 postage.

13 (5) If protected health information is either not  
14 maintained in electronic format by the health care provider or  
15 health care practitioner or not to be delivered in electronic  
16 format to the patient or patient's representative, the patient  
17 or patient's representative ~~The person (including patients,~~  
18 ~~health care practitioners and attorneys)~~ requesting copies of  
19 protected health information records shall reimburse the  
20 facility or the health care practitioner at the time of such  
21 copying for all reasonable expenses, including the costs of  
22 independent copy service companies, incurred in connection  
23 with such copying not to exceed ~~a \$20 handling charge for~~  
24 ~~processing the request and~~ the actual postage or shipping  
25 charge, if any, plus, ~~÷ (1)~~ for paper copies, 75 cents per page  
26 for the first through 25th pages, 50 cents per page for the

1 26th through 50th pages, and 25 cents per page for all pages in  
2 excess of 50 (except that the charge shall not exceed \$1.25 per  
3 page for any copies made from microfiche or microfilm; records  
4 retrieved from scanning, digital imaging, electronic  
5 information or other digital format do not qualify as  
6 microfiche or microfilm retrieval for purposes of calculating  
7 charges); ~~and (2) for electronic records, retrieved from a~~  
8 ~~scanning, digital imaging, electronic information or other~~  
9 ~~digital format in an electronic document, a charge of 50% of~~  
10 ~~the per page charge for paper copies under subdivision (d)(1).~~  
11 ~~This per page charge includes the cost of each CD Rom, DVD, or~~  
12 ~~other storage media. Records already maintained in an~~  
13 ~~electronic or digital format shall be provided in an electronic~~  
14 ~~format when so requested. If the records system does not allow~~  
15 ~~for the creation or transmission of an electronic or digital~~  
16 ~~record, then the facility or practitioner shall inform the~~  
17 ~~requester in writing of the reason the records can not be~~  
18 ~~provided electronically. The written explanation may be~~  
19 ~~included with the production of paper copies, if the requester~~  
20 ~~chooses to order paper copies. These rates shall be~~  
21 ~~automatically adjusted as set forth in Section 8-2006. The~~  
22 ~~facility or health care practitioner may, however, charge for~~  
23 ~~the reasonable cost of all duplication of record material or~~  
24 ~~information that cannot routinely be copied or duplicated on a~~  
25 ~~standard commercial photocopy machine such as x-ray films or~~  
26 ~~pictures.~~

1       (d-1) Each health care facility and health care  
2 practitioner shall adopt policies for the examination of  
3 protected health information that, at a minimum, sets forth the  
4 following:

5           (1) the method of delivery (U.S. mail, fax, email, or  
6 other method of delivery) accepted by the health care  
7 facility or health care practitioner and the delivery  
8 address for each accepted method of delivery for use by a  
9 patient or patient's representative for requests for  
10 protected health information; and

11           (2) a copy of a valid authorization for the release of  
12 records form to be signed by the patient or patient's  
13 legally authorized representative that will be acceptable,  
14 if properly completed by the patient or patient's legally  
15 authorized representative, to the health care facility or  
16 health care practitioner to allow release of protected  
17 health information, or, in the alternative, the elements  
18 required in a valid authorization for the release of  
19 records form to be acceptable to the health care facility  
20 or health care practitioner for the release of protected  
21 health information.

22       Each health care facility and health care practitioner  
23 shall make this information readily available to a patient and  
24 patient's representative. The health care facility or health  
25 care provider may publish this information on its website so  
26 that is available to the general public with access to the



1 internet.

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

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

20 (f) A health care facility or health care practitioner must  
21 provide the public with at least 30 days prior notice of the  
22 closure of the facility or the health care practitioner's  
23 practice. The notice must include an explanation of how copies  
24 of the facility's records may be accessed by patients. The  
25 notice may be given by publication in a newspaper of general  
26 circulation in the area in which the health care facility or

1 health care practitioner is located.

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

6 (h) Notwithstanding any other provision of the law in  
7 recognition of service provided, a health care facility or  
8 health care practitioner shall provide without charge one  
9 complete copy of a patient's records if: (1) the patient is an  
10 indigent homeless veteran; and (2) the records are being  
11 requested by the patient or a person, entity, or organization  
12 presenting a valid authorization for the release of records  
13 signed by the patient or the patient's legally authorized  
14 representative, for the purpose of supporting a claim for  
15 federal veterans' disability benefits.

16 (i) Notwithstanding any other provision of the law in  
17 recognition of service provided, a health care facility or  
18 health care practitioner shall provide without charge one  
19 complete copy of a patient's protected health information if:  
20 (1) the patient is an individual applying for Social Security  
21 Disability Income, Supplemental Security Income, or a  
22 State-funded program that requires protected health  
23 information to show program eligibility; and (2) the records  
24 are being requested by the patient or patient's representative  
25 for the purpose of supporting a claim for disability or medical  
26 assistance benefits.

1 (Source: P.A. 100-513, eff. 1-1-18; 100-814, eff. 1-1-19.)

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