



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0472

Introduced 2/8/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-802	from Ch. 110, par. 8-802
735 ILCS 5/8-2001	from Ch. 110, par. 8-2001
735 ILCS 5/8-2003	from Ch. 110, par. 8-2003
735 ILCS 5/8-2006	

Amends the Code of Civil Procedure. Provides that the exceptions to the physician-patient privilege against disclosure of information are expanded with a new class of exceptions (at present, there are 11 other exceptions) for information sought by subpoenas under the Medical Practice Act of 1987, the Illinois Dental Practice Act or the Nursing Home Administrators Licensing and Disciplinary Act. Provides that records of a health care facility shall be made available for examination or copying to the patient or the patient's legally authorized representative, his or her healthcare practitioner (at present, physician), authorized attorney, or any person, entity, or organization that presents a valid authorization for the release of records signed by the patient or the patient's legally authorized representative. Provides that a patient's records maintained by a health care practitioner shall be available to any person, entity, or organization presenting a valid authorization for the release of the records signed by the patient or the patient's legally authorized representative. Deletes reference in a Section concerning copying fees to a repealed Section.

LRB095 05619 AJO 25709 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 Sections 8-802, 8-2001, 8-2003, and 8-2006 as follows:

6 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

7 Sec. 8-802. Physician and patient. No physician or surgeon
8 shall be permitted to disclose any information he or she may
9 have acquired in attending any patient in a professional
10 character, necessary to enable him or her professionally to
11 serve the patient, except only (1) in trials for homicide when
12 the disclosure relates directly to the fact or immediate
13 circumstances of the homicide, (2) in actions, civil or
14 criminal, against the physician for malpractice, (3) with the
15 expressed consent of the patient, or in case of his or her
16 death or disability, of his or her personal representative or
17 other person authorized to sue for personal injury or of the
18 beneficiary of an insurance policy on his or her life, health,
19 or physical condition, (4) in all actions brought by or against
20 the patient, his or her personal representative, a beneficiary
21 under a policy of insurance, or the executor or administrator
22 of his or her estate wherein the patient's physical or mental
23 condition is an issue, (5) upon an issue as to the validity of

1 a document as a will of the patient, (6) in any criminal action
2 where the charge is either first degree murder by abortion,
3 attempted abortion or abortion, (7) in actions, civil or
4 criminal, arising from the filing of a report in compliance
5 with the Abused and Neglected Child Reporting Act, (8) to any
6 department, agency, institution or facility which has custody
7 of the patient pursuant to State statute or any court order of
8 commitment, (9) in prosecutions where written results of blood
9 alcohol tests are admissible pursuant to Section 11-501.4 of
10 the Illinois Vehicle Code, (10) in prosecutions where written
11 results of blood alcohol tests are admissible under Section
12 5-11a of the Boat Registration and Safety Act, ~~or~~ (11) in
13 criminal actions arising from the filing of a report of
14 suspected terrorist offense in compliance with Section
15 29D-10(p)(7) of the Criminal Code of 1961, or (12) upon the
16 issuance of a subpoena pursuant to Section 38 of the Medical
17 Practice Act of 1987; the issuance of a subpoena pursuant to
18 Section 25.1 of the Illinois Dental Practice Act; or the
19 issuance of a subpoena pursuant to Section 22 of the Nursing
20 Home Administrators Licensing and Disciplinary Act.

21 In the event of a conflict between the application of this
22 Section and the Mental Health and Developmental Disabilities
23 Confidentiality Act to a specific situation, the provisions of
24 the Mental Health and Developmental Disabilities
25 Confidentiality Act shall control.

26 (Source: P.A. 87-803; 92-854, eff. 12-5-02.)

1 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)

2 Sec. 8-2001. Examination of records.

3 In this Section, "health care facility" or "facility" means
4 a public or private hospital, ambulatory surgical treatment
5 center, nursing home, independent practice association, or
6 physician hospital organization, or any other entity where
7 health care services are provided to any person. The term does
8 not include an organizational structure whose records are
9 subject to Section 8-2003.

10 In this Part, "practitioner" means any health care
11 practitioner, including a physician, dentist, podiatrist,
12 advanced practice nurse, physician assistant, clinical
13 psychologist, or clinical social worker. The term includes a
14 medical office, health care clinic, health department, group
15 practice, and any other organizational structure for a licensed
16 professional to provide health care services. The term does not
17 include a health care facility as defined in this Section.

18 Every private and public health care facility shall, upon
19 the request of any patient who has been treated in such health
20 care facility, or any person, entity, or organization
21 presenting a valid authorization for the release of records
22 signed by the patient or the patient's legally authorized
23 representative, permit the patient, his or her healthcare
24 practitioner ~~physician~~, authorized attorney, or any person,
25 entity, or organization presenting a valid authorization for

1 the release of records signed by the patient or the patient's
2 legally authorized representative to examine the health care
3 facility patient care records, including but not limited to the
4 history, bedside notes, charts, pictures and plates, kept in
5 connection with the treatment of such patient, and permit
6 copies of such records to be made by him or her or his or her
7 healthcare practitioner ~~physician~~ or authorized attorney. A
8 request for copies of the records shall be in writing and shall
9 be delivered to the administrator or manager of such health
10 care facility. The health care facility shall be reimbursed by
11 the person requesting copies of records at the time of such
12 copying for all reasonable expenses, including the costs of
13 independent copy service companies, incurred by the health care
14 facility in connection with such copying not to exceed a \$20
15 handling charge for processing the request for copies, and 75
16 cents per page for the first through 25th pages, 50 cents per
17 page for the 26th through 50th pages, and 25 cents per page for
18 all pages in excess of 50 (except that the charge shall not
19 exceed \$1.25 per page for any copies made from microfiche or
20 microfilm), and actual shipping costs. These rates shall be
21 automatically adjusted as set forth in Section 8-2006. The
22 health care facility may, however, charge for the reasonable
23 cost of all duplication of record material or information that
24 cannot routinely be copied or duplicated on a standard
25 commercial photocopy machine such as x-ray films or pictures.

26 The requirements of this Section shall be satisfied within

1 30 days of the receipt of a written request by a patient or by
2 his or her legally authorized representative, healthcare
3 practitioner ~~physician~~, 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. If the health care facility
7 needs more time to comply with the request, then within 30 days
8 after receiving the request, the facility must provide the
9 requesting party with a written statement of the reasons for
10 the delay and the date by which the requested information will
11 be provided. In any event, the facility must provide the
12 requested information no later than 60 days after receiving the
13 request.

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

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

24 (Source: P.A. 93-87, eff. 7-2-03; 94-155, eff. 1-1-06.)

25 (735 ILCS 5/8-2003) (from Ch. 110, par. 8-2003)

1 Sec. 8-2003. Records of health care practitioners. ~~In this~~
2 ~~Section, "practitioner" means any health care practitioner,~~
3 ~~including a physician, dentist, podiatrist, advanced practice~~
4 ~~nurse, physician assistant, clinical psychologist, or clinical~~
5 ~~social worker. The term includes a medical office, health care~~
6 ~~clinic, health department, group practice, and any other~~
7 ~~organizational structure for a licensed professional to~~
8 ~~provide health care services. The term does not include a~~
9 ~~health care facility as defined in Section 8-2001.~~

10 Every practitioner shall, upon the request of any patient
11 who has been treated by such practitioner, or any person,
12 entity, or organization presenting a valid authorization for
13 the release of records signed by the patient or the patient's
14 legally authorized representative, permit the patient and the
15 patient's practitioner or authorized attorney, or any person,
16 entity, or organization presenting a valid authorization for
17 the release of records signed by the patient or the patient's
18 legally authorized representative, to examine and copy the
19 patient's records, including but not limited to those relating
20 to the diagnosis, treatment, prognosis, history, charts,
21 pictures and plates, kept in connection with the treatment of
22 such patient. Such request for examining and copying of the
23 records shall be in writing and shall be delivered to such
24 practitioner. Such written request shall be complied with by
25 the practitioner within a reasonable time after receipt by him
26 or her at his or her office or any other place designated by

1 him or her.

2 The requirements of this Section shall be satisfied within
3 30 days of the receipt of a written request. If the
4 practitioner needs more time to comply with the request, then
5 within 30 days after receiving the request, the practitioner
6 must provide the requesting party with a written statement of
7 the reasons for the delay and the date by which the requested
8 information will be provided. In any event, the practitioner
9 must provide the requested information no later than 60 days
10 after receiving the request.

11 The practitioner shall be reimbursed by the person
12 requesting such records at the time of such copying, for all
13 reasonable expenses, including the costs of independent copy
14 service companies, incurred by the practitioner in connection
15 with such copying not to exceed a \$20 handling charge for
16 processing the request for copies, and 75 cents per page for
17 the first through 25th pages, 50 cents per page for the 26th
18 through 50th pages, and 25 cents per page for all pages in
19 excess of 50 (except that the charge shall not exceed \$1.25 per
20 page for any copies made from microfiche or microfilm), and
21 actual shipping costs. These rates shall be automatically
22 adjusted as set forth in Section 8-2006. The physician or other
23 practitioner may, however, charge for the reasonable cost of
24 all duplication of record material or information that cannot
25 routinely be copied or duplicated on a standard commercial
26 photocopy machine such as x-ray films or pictures.

1 A health care practitioner must provide the public with at
2 least 30 days prior notice of the closure of the practitioner's
3 practice. The notice must include an explanation of how copies
4 of the practitioner's records may be accessed by patients. The
5 notice may be given by publication in a newspaper of general
6 circulation in the area in which the health care practitioner's
7 practice is located.

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

12 (Source: P.A. 92-228, eff. 9-1-01; 93-87, eff. 7-2-03.)

13 (735 ILCS 5/8-2006)

14 Sec. 8-2006. Copying fees; adjustment for inflation.
15 Beginning in 2003, every January 20, the copying fee limits
16 established in Sections 8-2001, 8-2003, ~~8-2004~~, and 8-2005
17 shall automatically be increased or decreased, as applicable,
18 by a percentage equal to the percentage change in the consumer
19 price index-u during the preceding 12-month calendar year.
20 "Consumer price index-u" means the index published by the
21 Bureau of Labor Statistics of the United States Department of
22 Labor that measures the average change in prices of goods and
23 services purchased by all urban consumers, United States city
24 average, all items, 1982-84 = 100. The new amount resulting
25 from each annual adjustment shall be determined by the

1 Comptroller and made available to the public via the
2 Comptroller's official website by January 31 of every year.
3 (Source: P.A. 94-982, eff. 6-30-06.)