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LRB095 05619 AJO 35295 a

1 AMENDMENT TO SENATE BILL 472

2 AMENDMENT NO. _____. Amend Senate Bill 472 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 8-802, 8-2001, 8-2005, 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

1 other person authorized to sue for personal injury or of the
2 beneficiary of an insurance policy on his or her life, health,
3 or physical condition, (4) in all actions brought by or against
4 the patient, his or her personal representative, a beneficiary
5 under a policy of insurance, or the executor or administrator
6 of his or her estate wherein the patient's physical or mental
7 condition is an issue, (5) upon an issue as to the validity of
8 a document as a will of the patient, (6) in any criminal action
9 where the charge is either first degree murder by abortion,
10 attempted abortion or abortion, (7) in actions, civil or
11 criminal, arising from the filing of a report in compliance
12 with the Abused and Neglected Child Reporting Act, (8) to any
13 department, agency, institution or facility which has custody
14 of the patient pursuant to State statute or any court order of
15 commitment, (9) in prosecutions where written results of blood
16 alcohol tests are admissible pursuant to Section 11-501.4 of
17 the Illinois Vehicle Code, (10) in prosecutions where written
18 results of blood alcohol tests are admissible under Section
19 5-11a of the Boat Registration and Safety Act, ~~or~~ (11) in
20 criminal actions arising from the filing of a report of
21 suspected terrorist offense in compliance with Section
22 29D-10(p)(7) of the Criminal Code of 1961, or (12) upon the
23 issuance of a subpoena pursuant to Section 38 of the Medical
24 Practice Act of 1987; the issuance of a subpoena pursuant to
25 Section 25.1 of the Illinois Dental Practice Act; or the
26 issuance of a subpoena pursuant to Section 22 of the Nursing

1 Home Administrators Licensing and Disciplinary Act.

2 In the event of a conflict between the application of this
3 Section and the Mental Health and Developmental Disabilities
4 Confidentiality Act to a specific situation, the provisions of
5 the Mental Health and Developmental Disabilities
6 Confidentiality Act shall control.

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

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

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

10 (a) In this Section:7

11 "Health ~~health~~ care facility" or "facility" means a public
12 or private hospital, ambulatory surgical treatment center,
13 nursing home, independent practice association, or physician
14 hospital organization, or any other entity where health care
15 services are provided to any person. The term does not include
16 a health care practitioner ~~an organizational structure whose~~
17 ~~records are subject to Section 8-2003.~~

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

1 **(b)** Every private and public health care facility shall,
2 upon the request of any patient who has been treated in such
3 health care facility, or any person, entity, or organization
4 presenting a valid authorization for the release of records
5 signed by the patient or the patient's legally authorized
6 representative, permit the patient, his or her healthcare
7 practitioner ~~physician~~, authorized attorney, or any person,
8 entity, or organization presenting a valid authorization for
9 the release of records signed by the patient or the patient's
10 legally authorized representative to examine the health care
11 facility patient care records, including but not limited to the
12 history, bedside notes, charts, pictures and plates, kept in
13 connection with the treatment of such patient, and permit
14 copies of such records to be made by him or her or his or her
15 healthcare practitioner ~~physician~~ or authorized attorney.

16 **(c)** Every health care practitioner shall, upon the request
17 of any patient who has been treated by the health care
18 practitioner, or any person, entity, or organization
19 presenting a valid authorization for the release of records
20 signed by the patient or the patient's legally authorized
21 representative, permit the patient and the patient's health
22 care practitioner or authorized attorney, or any person,
23 entity, or organization presenting a valid authorization for
24 the release of records signed by the patient or the patient's
25 legally authorized representative, to examine and copy the
26 patient's records, including but not limited to those relating

1 to the diagnosis, treatment, prognosis, history, charts,
2 pictures and plates, kept in connection with the treatment of
3 such patient.

4 (d) A request for copies of the records shall be in writing
5 and shall be delivered to the administrator or manager of such
6 health care facility or to the health care practitioner. The
7 ~~health care facility shall be reimbursed by the person~~
8 (including patients, health care practitioners and attorneys)
9 requesting copies of records shall reimburse the facility or
10 the health care practitioner at the time of such copying for
11 all reasonable expenses, including the costs of independent
12 copy service companies, ~~incurred by the health care facility~~ in
13 connection with such copying not to exceed a \$20 handling
14 charge for processing the request ~~for copies,~~ and the actual
15 postage or shipping charge, if any, plus: (1) for paper copies
16 75 cents per page for the first through 25th pages, 50 cents
17 per page for the 26th through 50th pages, and 25 cents per page
18 for 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; records retrieved from scanning, digital imaging,
21 electronic information or other digital format do not qualify
22 as microfiche or microfilm retrieval for purposes of
23 calculating charges); and (2) for electronic records,
24 retrieved from a scanning, digital imaging, electronic
25 information or other digital format in a electronic document, a
26 charge of 75 cents for each CD Rom, DVD, or other storage

1 media. Records already maintained in an electronic or digital
2 format shall be provided in an electronic format when so
3 requested), and actual shipping costs. If the records system
4 does not allow for the creation or transmission of an
5 electronic or digital record, then the facility or practitioner
6 shall inform the requester in writing of the reason the records
7 can not be provided electronically. These rates shall be
8 automatically adjusted as set forth in Section 8-2006. The
9 ~~health care~~ facility or health care practitioner may, however,
10 charge for the reasonable cost of all duplication of record
11 material or information that cannot routinely be copied or
12 duplicated on a standard commercial photocopy machine such as
13 x-ray films or pictures.

14 (e) The requirements of this Section shall be satisfied
15 within 30 days of the receipt of a written request by a patient
16 or by his or her legally authorized representative, healthcare
17 practitioner ~~physician~~, 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. If the ~~health care~~ facility
21 or health care practitioner needs more time to comply with the
22 request, then within 30 days after receiving the request, the
23 facility or health care practitioner must provide the
24 requesting party with a written statement of the reasons for
25 the delay and the date by which the requested information will
26 be provided. In any event, the facility or health care

1 practitioner must provide the requested information no later
2 than 60 days after receiving the request.

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

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

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

16 (735 ILCS 5/8-2005)

17 Sec. 8-2005. Attorney's records. This Section applies only
18 if a client and his or her authorized attorney have complied
19 with all applicable legal requirements regarding examination
20 and copying of client files, including but not limited to
21 satisfaction of expenses and attorney retaining liens.

22 Upon the request of a client, an attorney shall permit the
23 client's authorized attorney to examine and copy the records
24 kept by the attorney in connection with the representation of
25 the client, with the exception of attorney work product. The

1 request for examination and copying of the records shall be in
2 writing and shall be delivered to the attorney. Within a
3 reasonable time after the attorney receives the written
4 request, the attorney shall comply with the written request at
5 his or her office or any other place designated by him or her.
6 At the time of copying, the person requesting the records shall
7 reimburse the attorney for all reasonable expenses, including
8 the costs of independent copy service companies, incurred by
9 the attorney in connection with the copying not to exceed a \$20
10 handling charge for processing the request ~~for copies~~, and the
11 actual postage or shipping charges, if any, plus (1) for paper
12 copies 75 cents per page for the first through 25th pages, 50
13 cents per page for the 26th through 50th pages, and 25 cents
14 per page for all pages in excess of 50 (except that the charge
15 shall not exceed \$1.25 per page for any copies made from
16 microfiche or microfilm; records retrieved from scanning,
17 digital imaging, electronic information or other digital
18 format do not qualify as microfiche or microfilm retrieval for
19 purposes of calculating charges); and (2) for electronic
20 records, retrieved from a scanning, digital imaging,
21 electronic information or other digital format in a electronic
22 document, a charge of 75 cents for each CD Rom, DVD, or other
23 storage media. Records already maintained in an electronic or
24 digital format shall be provided in an electronic format when
25 so requested), and actual shipping costs. If the records system
26 does not allow for the creation or transmission of an

1 electronic or digital record, then the attorney shall inform
2 the requester in writing of the reason the records can not be
3 provided electronically. These rates shall be automatically
4 adjusted as set forth in Section 8-2006. The attorney may,
5 however, charge for the reasonable cost of all duplication of
6 record material or information that cannot routinely be copied
7 or duplicated on a standard commercial photocopy machine such
8 as pictures.

9 An attorney shall satisfy the requirements of this Section
10 within 60 days after he or she receives a request from a client
11 or his or her authorized attorney. An attorney who fails to
12 comply with the time limit requirement of this Section shall be
13 required to pay expenses and reasonable attorney's fees
14 incurred in connection with any court-ordered enforcement of
15 the requirements of this Section.

16 (Source: P.A. 92-228, eff. 9-1-01.)

17 (735 ILCS 5/8-2006)

18 Sec. 8-2006. Copying fees; adjustment for inflation.
19 Beginning in 2003, every January 20, the copying fee limits
20 established in Sections 8-2001, ~~8-2003, 8-2004,~~ and 8-2005
21 shall automatically be increased or decreased, as applicable,
22 by a percentage equal to the percentage change in the consumer
23 price index-u during the preceding 12-month calendar year.
24 "Consumer price index-u" means the index published by the
25 Bureau of Labor Statistics of the United States Department of

1 Labor that measures the average change in prices of goods and
2 services purchased by all urban consumers, United States city
3 average, all items, 1982-84 = 100. The new amount resulting
4 from each annual adjustment shall be determined by the
5 Comptroller and made available to the public via the
6 Comptroller's official website by January 31 of every year.
7 (Source: P.A. 94-982, eff. 6-30-06.)

8 (735 ILCS 5/8-2003 rep.)

9 Section 90. The Code of Civil Procedure is amended by
10 repealing Section 8-2003.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.".