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W. Va. Code § 16-29-1 (Copy citation)

Text Current Through The 2012 Regular And First Extraordinary Sessions Annotations Current Through December 20, 2011

West Virginia Code Chapter 16. Article 29.**§ 16-29-1. Copies of health care records to be furnished to patients.**

Any licensed, certified or registered health care provider so licensed, certified or registered under the laws of this state shall, upon the written request of a patient, his authorized agent or authorized representative, within a reasonable time, furnish a copy, as requested, of all or a portion of the patient's record to the patient, his authorized agent or authorized representative subject to the following exceptions:

(a) In the case of a patient receiving treatment for psychiatric or psychological problems, a summary of the record shall be made available to the patient, his authorized agent or authorized representative following termination of the treatment program.

(b) Nothing in this article shall be construed to require a health care provider responsible for diagnosis, treatment or administering health care services in the case of minors for birth control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article be construed to apply to persons regulated under the provisions of chapter eighteen [§§ 18-1-1 et seq.] of this code or the rules and regulations established thereunder.

(c) The furnishing of a copy, as requested, of the reports of X-ray examinations, electrocardiograms and other diagnostic procedures shall be deemed to comply with the provisions of this article: Provided, That original radiological study film from a radiological examination conducted pursuant to a request from a patient or patient's representative shall be provided to the patient or patient's representative upon written request and payment for the exam. The health care provider shall not be required to interpret or retain copies of the film and shall be immune from liability resulting from any action relating to the absence of the original radiological film from the patient's record.

(d) This article shall not apply to records subpoenaed or otherwise requested through court process.

(e) The provisions of this article may be enforced by a patient, authorized agent or authorized representative, and any health care provider found to be in violation of this article shall pay any attorney fees and costs, including court costs incurred in the course of such enforcement.

(f) Nothing in this article shall be construed to apply to health care records maintained by health care providers governed by the AIDS-related medical testing and records confidentiality act under the provisions of article three-c [§§ 16-3C-1 et seq.] of this chapter.

History

1983, c. 101; 1990, c. 95; 1992, c. 96.

Annotations Hide**Case Notes****Claim too remote to sustain joinder.**

Plaintiff attempted to join a claim based on a pharmacy's alleged inadequate compliance concerning her request for production of medical records with her claims against the other diverse defendants concerning the distribution of counterfeit tablets into the chain of commerce. Even assuming plaintiff had a claim under W. Va. Code § 16-29-1, the elements of which would include a request for medical records and a refusal by the health care provider to comply with such request, that claim was legally and factually too remote to sustain joinder under either federal or West Virginia law. *Ashworth v. Albers Med., Inc.*, 395 F. Supp. 2d 395, 2005 U.S. Dist. LEXIS 22596 (2005).

Cited in

Ashworth v. Albers Med., Inc., 410 F. Supp. 2d 471, 2005 U.S. Dist. LEXIS 22600 (Aug 23, 2005).

Research References & Practice Aids

HIERARCHY NOTES:

Ch. 16 Note

Michie's West Virginia Code Annotated

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W. Va. Code § 16-29-2 (Copy citation)

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West Virginia Code Chapter 16. Article 29.**§ 16-29-2. Reasonable expenses to be reimbursed.**

(a) The provider shall be reimbursed by the person requesting in writing a copy of the records at the time of delivery for all reasonable expenses incurred in complying with this article: Provided, That the cost may not exceed seventy-five cents per page for the copying of any record or records which have already been reduced to written form and a search fee may not exceed ten dollars.

(b) Notwithstanding the provisions of subsection (a) of this section, a provider shall not impose a charge on an indigent person or his or her authorized representative if the medical records are necessary for the purpose of supporting a claim or appeal under any provisions of the Social Security Act, 42 U.S.C. §§ 301 et seq.

(c) For purposes of this section, a person is considered indigent if he or she:

(1) Is represented by an organization or affiliated pro bono program that provides legal assistance to indigents; or

(2) Verifies on a medical records request and release form that the records are requested for purposes of supporting a Social Security claim or appeal and submits with the release form reasonable proof that the person is financially unable to pay full copying charges by reason of unemployment, disability, income below the federal poverty level, or receipt of state or federal income assistance.

(d) Any person requesting free copies of written medical records pursuant to the provisions of subsection (b) of this section is limited to one set of copies per provider. Any additional requests for the same records from the same provider shall be subject to the fee provisions of subsection (a).

History

1983, c. 101; 1990, c. 95; 1992, c. 96; 1999, c. 140.

Annotations☐ Hide**Research References & Practice Aids****HIERARCHY NOTES:**

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