

1 AN ACT concerning regulation.

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 8-2001 and 8-2001.5 as follows:

6 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)
7 Sec. 8-2001. Examination of health care records.

8 (a) In this Section:

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

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

23 (b) Every private and public health care facility shall,

1 upon the request of any patient who has been treated in such
2 health care facility, or any person, entity, or organization
3 presenting a valid authorization for the release of records
4 signed by the patient or the patient's legally authorized
5 representative, or as authorized by Section 8-2001.5, permit
6 the patient, his or her health care practitioner, authorized
7 attorney, or any person, entity, or organization presenting a
8 valid authorization for the release of records signed by the
9 patient or the patient's legally authorized representative to
10 examine the health care facility patient care records,
11 including but not limited to the history, bedside notes,
12 charts, pictures and plates, kept in connection with the
13 treatment of such patient, and permit copies of such records to
14 be made by him or her or his or her health care practitioner or
15 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 person (including patients, health care practitioners and
8 attorneys) requesting copies of records shall reimburse the
9 facility or the health care practitioner at the time of such
10 copying for all reasonable expenses, including the costs of
11 independent copy service companies, incurred in connection
12 with such copying not to exceed a \$20 handling charge for
13 processing the request and the actual postage or shipping
14 charge, if any, plus: (1) for paper copies 75 cents per page
15 for the first through 25th pages, 50 cents per page for the
16 26th through 50th pages, and 25 cents per page for all pages in
17 excess of 50 (except that the charge shall not exceed \$1.25 per
18 page for any copies made from microfiche or microfilm; records
19 retrieved from scanning, digital imaging, electronic
20 information or other digital format do not qualify as
21 microfiche or microfilm retrieval for purposes of calculating
22 charges); and (2) for electronic records, retrieved from a
23 scanning, digital imaging, electronic information or other
24 digital format in a electronic document, a charge of 50% of the
25 per page charge for paper copies under subdivision (d) (1). This
26 per page charge includes the cost of each CD Rom, DVD, or other

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

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

18 (e) The requirements of this Section shall be satisfied
19 within 30 days of the receipt of a written request by a patient
20 or by his or her legally authorized representative, health care
21 practitioner, authorized attorney, or any person, entity, or
22 organization presenting a valid authorization for the release
23 of records signed by the patient or the patient's legally
24 authorized representative. If the facility or health care
25 practitioner needs more time to comply with the request, then
26 within 30 days after receiving the request, the facility or

1 health care practitioner must provide the requesting party with
2 a written statement of the reasons for the delay and the date
3 by which the requested information will be provided. In any
4 event, the facility or health care practitioner must provide
5 the requested information no later than 60 days after receiving
6 the request.

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

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

19 (Source: P.A. 97-623, eff. 11-23-11.)

20 (735 ILCS 5/8-2001.5)

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

23 (a) In addition to disclosure allowed under Section 8-802,
24 a deceased person's health care records must ~~may~~ be released
25 upon written request of the executor or administrator of the

1 deceased person's estate or to an agent appointed by the
2 deceased under a power of attorney for health care. When no
3 executor, administrator, or agent exists, and the person did
4 not specifically object to disclosure of his or her records in
5 writing, then a deceased person's health care records must ~~may~~
6 be released upon the written request of a person, who is
7 considered to be a personal representative of the patient for
8 the purpose of the release of a deceased patient's health care
9 records, in one of these categories:

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

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

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

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

26 (d) Upon request for records of a deceased patient, the

1 named authorized relative shall provide the facility or
2 practitioner with a certified copy of the death certificate and
3 a certification in substantially the following form:

4 AUTHORIZED RELATIVE CERTIFICATION

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

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

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

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

19 (1) An adult son or daughter of the deceased.

20 (2) Either parent of the deceased.

21 (3) An adult brother or sister of the deceased.

1 I certify that I am seeking the records as a personal
 2 representative who is acting in a representative capacity and
 3 who is authorized to seek these records under Section 8-2001.5
 4 of the Code of Civil Procedure.

5 This certification is made under penalty of perjury.*

6 Dated: (insert date)

7

8 (Print Authorized Relative's Name)

9

10 (Authorized Relative's Signature)

11

12 (Authorized Relative's Address)

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

15 (Source: P.A. 97-623, eff. 11-23-11.)

16 Section 99. Effective date. This Act takes effect upon
 17 becoming law.