

AN ACT concerning civil law.

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

Section 5. The Code of Civil Procedure is amended by changing Sections 8-802, 8-2001, 8-2005, and 8-2006 as follows:

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

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

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

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

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

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

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

(a) In this Section:~~7~~

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

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

(b) Every private and public health care facility shall, upon the request of any patient who has been treated in such health care facility, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, permit the patient, his or her health care practitioner ~~physician~~, authorized attorney, or any person,

entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative to examine the health care facility patient care records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her health care practitioner ~~physician~~ or authorized attorney.

(c) Every health care practitioner shall, upon the request of any patient who has been treated by the health care practitioner, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, permit the patient and the patient's health care practitioner or authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, to examine and copy the patient's records, including but not limited to those relating to the diagnosis, treatment, prognosis, history, charts, pictures and plates, kept in connection with the treatment of such patient.

(d) A request for copies of the records shall be in writing and shall be delivered to the administrator or manager of such health care facility or to the health care practitioner. The health care facility shall be reimbursed by the person

(including patients, health care practitioners and attorneys) requesting copies of records shall reimburse the facility or the health care practitioner at the time of such copying for all reasonable expenses, including the costs of independent copy service companies, incurred ~~by the health care facility~~ in connection with such copying not to exceed a \$20 handling charge for processing the request ~~for copies,~~ and the actual postage or shipping charge, if any, plus: (1) for paper copies 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed \$1.25 per page for any copies made from microfiche or microfilm; records retrieved from scanning, digital imaging, electronic information or other digital format do not qualify as microfiche or microfilm retrieval for purposes of calculating charges); and (2) for electronic records, retrieved from a scanning, digital imaging, electronic information or other digital format in a electronic document, a charge of 75 cents for each CD Rom, DVD, or other storage media. Records already maintained in an electronic or digital format shall be provided in an electronic format when so requested), and actual shipping costs. If the records system does not allow for the creation or transmission of an electronic or digital record, then the facility or practitioner shall inform the requester in writing of the reason the records can not be provided electronically. These rates shall be

automatically adjusted as set forth in Section 8-2006. The ~~health care facility~~ or health care practitioner may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures.

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

(f) A health care facility or health care practitioner must provide the public with at least 30 days prior notice of the closure of the facility or the health care practitioner's practice. The notice must include an explanation of how copies of the facility's records may be accessed by patients. The

notice may be given by publication in a newspaper of general circulation in the area in which the health care facility or health care practitioner is located.

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

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

(735 ILCS 5/8-2005)

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

Upon the request of a client, an attorney shall permit the client's authorized attorney to examine and copy the records kept by the attorney in connection with the representation of the client, with the exception of attorney work product. The request for examination and copying of the records shall be in writing and shall be delivered to the attorney. Within a reasonable time after the attorney receives the written request, the attorney shall comply with the written request at his or her office or any other place designated by him or her. At the time of copying, the person requesting the records shall reimburse the attorney for all reasonable expenses, including

the costs of independent copy service companies, incurred by the attorney in connection with the copying not to exceed a \$20 handling charge for processing the request ~~for copies~~, and the actual postage or shipping charges, if any, plus (1) for paper copies 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed \$1.25 per page for any copies made from microfiche or microfilm; records retrieved from scanning, digital imaging, electronic information or other digital format do not qualify as microfiche or microfilm retrieval for purposes of calculating charges); and (2) for electronic records, retrieved from a scanning, digital imaging, electronic information or other digital format in a electronic document, a charge of 75 cents for each CD Rom, DVD, or other storage media. Records already maintained in an electronic or digital format shall be provided in an electronic format when so requested), and ~~actual shipping costs. If the records system does not allow for the creation or transmission of an electronic or digital record, then the attorney shall inform the requester in writing of the reason the records cannot be provided electronically.~~ These rates shall be automatically adjusted as set forth in Section 8-2006. The attorney may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such

as pictures.

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

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

(735 ILCS 5/8-2006)

Sec. 8-2006. Copying fees; adjustment for inflation. Beginning in 2003, every January 20, the copying fee limits established in Sections 8-2001,~~8-2003,~~~~8-2004,~~ and 8-2005 shall automatically be increased or decreased, as applicable, by a percentage equal to the percentage change in the consumer price index-u during the preceding 12-month calendar year. "Consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Comptroller and made available to the public via the Comptroller's official website by January 31 of every year.

(Source: P.A. 94-982, eff. 6-30-06.)

Public Act 095-0478

SB0472 Enrolled

LRB095 05619 AJO 25709 b

(735 ILCS 5/8-2003 rep.)

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

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