



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1137

Introduced 1/12/2023, by Rep. Dan Caulkins

SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-2001

from Ch. 110, par. 8-2001

Amends the Code of Civil Procedure. Requires a health care facility or health care practitioner to notify the patient in writing when the health care facility or health care practitioner alters the patient's record within 3 business days of the alteration. Requires a health care facility or health care practitioner to provide an electronic copy of an altered record within 7 calendar days of the receipt of a written request by a patient. Requires any health care facility that accepts Medicaid to, upon written request, provide an electronic copy of an altered record within 4 business days. Provides that the failure to comply with the time limit requirements of the new provisions shall result in a rebuttable presumption that the health care record was altered to fraudulently conceal a failure to meet the applicable standard of care.

LRB103 00089 LNS 45089 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 Section 8-2001 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, podiatric
17 physician, advanced practice registered nurse, registered
18 nurse, licensed practical nurse, physician assistant, clinical
19 psychologist, clinical social worker, therapist, or counselor.
20 The term includes a medical office, health care clinic, health
21 department, group practice, and any other organizational
22 structure for a licensed professional to provide health care
23 services. The term does not 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, or as authorized by Section 8-2001.5, permit
7 the patient, his or her health care practitioner, authorized
8 attorney, or any person, entity, or organization presenting a
9 valid authorization for the release of records signed by the
10 patient or the patient's legally authorized representative to
11 examine the health care facility patient care records,
12 including but not limited to the history, bedside notes,
13 charts, pictures and plates, kept in connection with the
14 treatment of such patient, and permit copies of such records
15 to be made by him or her or his or her health care practitioner
16 or authorized attorney.

17 (c) Every health care practitioner shall, upon the request
18 of any patient who has been treated by the health care
19 practitioner, or any person, entity, or organization
20 presenting a valid authorization for the release of records
21 signed by the patient or the patient's legally authorized
22 representative, permit the patient and the patient's health
23 care practitioner or authorized attorney, or any person,
24 entity, or organization presenting a valid authorization for
25 the release of records signed by the patient or the patient's
26 legally authorized representative, to examine and copy the

1 patient's records, including but not limited to those relating
2 to the diagnosis, treatment, prognosis, history, charts,
3 pictures and plates, kept in connection with the treatment of
4 such patient.

5 (d) A request for copies of the records shall be in writing
6 and shall be delivered to the administrator or manager of such
7 health care facility or to the health care practitioner. The
8 person (including patients, health care practitioners and
9 attorneys) requesting copies of records shall reimburse the
10 facility or the health care practitioner at the time of such
11 copying for all reasonable expenses, including the costs of
12 independent copy service companies, incurred in connection
13 with such copying not to exceed a \$20 handling charge for
14 processing the request and the actual postage or shipping
15 charge, if any, plus: (1) for paper copies 75 cents per page
16 for the first through 25th pages, 50 cents per page for the
17 26th through 50th pages, and 25 cents per page for all pages in
18 excess of 50 (except that the charge shall not exceed \$1.25 per
19 page for any copies made from microfiche or microfilm; records
20 retrieved from scanning, digital imaging, electronic
21 information or other digital format do not qualify as
22 microfiche or microfilm retrieval for purposes of calculating
23 charges); and (2) for electronic records, retrieved from a
24 scanning, digital imaging, electronic information or other
25 digital format in an electronic document, a charge of 50% of
26 the per page charge for paper copies under subdivision (d) (1).

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

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

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

1 care practitioner needs more time to comply with the request,
2 then within 30 days after receiving the request, the facility
3 or health care practitioner must provide the requesting party
4 with a written statement of the reasons for the delay and the
5 date by which the requested information will be provided. In
6 any event, the facility or health care practitioner must
7 provide the requested information no later than 60 days after
8 receiving the request.

9 (e-5) When a health care facility or health care
10 practitioner alters a patient's record, that health care
11 facility or health care practitioner shall within 3 business
12 days of the alteration notify the patient or his or her duly
13 authorized representative in writing of the alteration,
14 including an explanation of why the record was altered. A
15 health care facility or health care practitioner shall provide
16 an electronic copy of an altered record within 7 calendar days
17 of the receipt of a written request by a patient or by his or
18 her legally authorized representative, health care
19 practitioner, authorized attorney, or any person, entity, or
20 organization presenting a valid authorization for the release
21 of records signed by the patient or the patient's legally
22 authorized representative. Any health care facility that
23 accepts Medicaid shall upon written request of the patient or
24 his or her duly authorized representative provide an
25 electronic copy of an altered record, including audit trails
26 and audit logs, within 4 business days. Failure to comply with

1 the time limit requirement of this subsection shall result in
2 a rebuttable presumption that the health care record was
3 altered to fraudulently conceal a failure to meet the
4 applicable standard of care.

5 As used in this subsection, "audit trails and audit logs"
6 means all patient identifiable data held within the databases
7 of an electronic record and are distinctly different than the
8 requirements under the HIPAA Security Rule.

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

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

21 (h) Notwithstanding any other provision of the law, a
22 health care facility or health care practitioner shall provide
23 without charge one complete copy of a patient's records if the
24 records are being requested by the patient or a person,
25 entity, attorney, registered representative, or organization
26 presenting a valid authorization for the release of records

1 signed by the patient or the patient's legally authorized
2 representative who has provided documentation of authority to
3 act for the patient, or by such other requester as is
4 authorized by statute if the patient is deceased, for the
5 purpose of supporting a claim for: (1) federal veterans'
6 disability benefits; (2) federal Social Security or
7 Supplemental Security Income benefits, or both, under any
8 title of the Social Security Act; or (3) Aid to the Aged,
9 Blind, or Disabled benefits. Upon request, and if the records
10 are for at least one of the approved purposes, the requester
11 may obtain updated medical records not included in the
12 original medical record free of charge if the request is
13 accompanied by a valid authorization for the release of
14 records signed by the patient, the patient's legally
15 authorized representative who has provided documentation of
16 authority to act for the patient, or such other requester as is
17 authorized by statute if the patient is deceased.

18 (Source: P.A. 102-183, eff. 1-1-22.)