

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 172

Representative Schuring

A BILL

To amend section 3701.74 of the Revised Code to 1
modify the laws governing access to a patient's 2
medical records. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3701.74 of the Revised Code be 4
amended to read as follows: 5

Sec. 3701.74. (A) As used in this section and section 6
3701.741 of the Revised Code: 7

(1) "Ambulatory care facility" means a facility that 8
provides medical, diagnostic, or surgical treatment to patients 9
who do not require hospitalization, including a dialysis center, 10
ambulatory surgical facility, cardiac catheterization facility, 11
diagnostic imaging center, extracorporeal shock wave lithotripsy 12
center, home health agency, inpatient hospice, birthing center, 13
radiation therapy center, emergency facility, and an urgent care 14
center. "Ambulatory care facility" does not include the private 15
office of a physician or dentist, whether the office is for an 16
individual or group practice. 17

(2) "Chiropractor" means an individual licensed under 18
Chapter 4734. of the Revised Code to practice chiropractic. 19

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	20 21 22
(4) "Health care practitioner" means all of the following:	23
(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	24 25
(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	26 27
(c) An optometrist licensed under Chapter 4725. of the Revised Code;	28 29
(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	30 31 32 33
(e) A pharmacist licensed under Chapter 4729. of the Revised Code;	34 35
(f) A physician;	36
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	37 38
(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	39 40
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	41 42
(j) A chiropractor;	43
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	44 45

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	46 47
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	48 49
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	50 51
(o) A licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	52 53 54 55 56
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	57 58
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	59 60
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	61 62 63 64
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	65 66 67
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	68 69
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the	70 71 72 73

Revised Code that provides accommodations, supervision, and 74
personal care services for three to sixteen unrelated adults; a 75
nursing facility, as defined in section 5165.01 of the Revised 76
Code; a skilled nursing facility, as defined in section 5165.01 77
of the Revised Code; and an intermediate care facility for 78
individuals with intellectual disabilities, as defined in 79
section 5124.01 of the Revised Code. 80

(8) "Medical record" means data in any form that pertains 81
to a patient's medical history, diagnosis, prognosis, or medical 82
condition and that is ~~generated and maintained~~ designated by a 83
health care provider ~~in the process of~~ as the record of the 84
patient's ~~health~~ clinical care ~~treatment~~. 85

(9) "Medical records company" means a person who stores, 86
locates, or copies medical records for a health care provider, 87
or is compensated for doing so by a health care provider, and 88
charges a fee for providing medical records to a patient or 89
patient's representative. 90

(10) "Patient" means either of the following: 91

(a) An individual who received health care treatment from 92
a health care provider; 93

(b) A guardian, as defined in section 1337.11 of the 94
Revised Code, of an individual described in division (A) (10) (a) 95
of this section. 96

(11) "Patient's personal representative" means a minor 97
patient's parent or other person acting in loco parentis, a 98
court-appointed guardian, or a person with durable power of 99
attorney for health care for a patient, the executor or 100
administrator of the patient's estate, or the person responsible 101
for the patient's estate if it is not to be probated. "Patient's 102

personal representative" does not include an insurer authorized 103
under Title XXXIX of the Revised Code to do the business of 104
sickness and accident insurance in this state, a health insuring 105
corporation holding a certificate of authority under Chapter 106
1751. of the Revised Code, or any other person not named in this 107
division. 108

(12) "Pharmacy" has the same meaning as in section 4729.01 109
of the Revised Code. 110

(13) "Physician" means a person authorized under Chapter 111
4731. of the Revised Code to practice medicine and surgery, 112
osteopathic medicine and surgery, or podiatric medicine and 113
surgery. 114

(14) "Authorized person" means a person to whom a patient 115
has given written authorization to act on the patient's behalf 116
regarding the patient's medical record. 117

(B) A patient, a patient's personal representative, or an 118
authorized person who wishes to examine or obtain a copy of part 119
or all of ~~a~~ the patient's medical record shall submit to the 120
health care provider a written request signed by the patient, 121
personal representative, or authorized person dated not more 122
than one year before the date on which it is submitted. The 123
request shall indicate whether the copy is to be sent to the 124
requestor, physician or chiropractor, or held for the requestor 125
at the office of the health care provider. Within a reasonable 126
time after receiving a request that meets the requirements of 127
this division and includes sufficient information to identify 128
the medical record requested, a health care provider that has 129
the patient's medical records shall permit the patient to 130
examine the medical record during regular business hours without 131
charge or, on request, shall provide a copy of the medical 132

record in accordance with section 3701.741 of the Revised Code, 133
except that if a physician, psychologist, licensed professional 134
clinical counselor, licensed professional counselor, independent 135
social worker, social worker, independent marriage and family 136
therapist, marriage and family therapist, or chiropractor who 137
has treated the patient determines for clearly stated treatment 138
reasons that disclosure of the requested medical record is 139
likely to have an adverse effect on the patient, the health care 140
provider shall provide the medical record to a physician, 141
psychologist, licensed professional clinical counselor, licensed 142
professional counselor, independent social worker, social 143
worker, independent marriage and family therapist, marriage and 144
family therapist, or chiropractor designated by the patient. The 145
health care provider shall take reasonable steps to establish 146
the identity of the person making the request to examine or 147
obtain a copy of the patient's medical record. 148

(C) If a health care provider fails to furnish a medical 149
record as required by division (B) of this section, the patient, 150
personal representative, or authorized person who requested the 151
record may bring a civil action to enforce the patient's right 152
of access to the record. 153

(D) (1) This section does not apply to medical records 154
whose release is covered by section 173.20 or 3721.13 of the 155
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised 156
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug 157
Abuse Patient Records," or by 42 C.F.R. 483.10. 158

(2) Nothing in this section is intended to supersede the 159
confidentiality provisions of sections 2305.24, 2305.25, 160
2305.251, and 2305.252 of the Revised Code. 161

(3) This section does not limit any of the information 162

that must be provided by a health care provider if the 163
information relates to litigation. 164

Section 2. That existing section 3701.74 of the Revised 165
Code is hereby repealed. 166

Section 3. Section 3701.74 of the Revised Code is 167
presented in this act as a composite of the section as amended 168
by both Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General 169
Assembly. The General Assembly, applying the principle stated in 170
division (B) of section 1.52 of the Revised Code that amendments 171
are to be harmonized if reasonably capable of simultaneous 172
operation, finds that the composite is the resulting version of 173
the section in effect prior to the effective date of the section 174
as presented in this act. 175