

1 HB228  
2 163492-2  
3 By Representative Wadsworth  
4 RFD: Judiciary  
5 First Read: 10-MAR-15

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8 SYNOPSIS: Under existing law, once a custodian of  
9 hospital records receives a subpoena duces tecum  
10 from a patient or the patient's legal  
11 representative for records of the patient, the  
12 custodian must copy the records and forward the  
13 certified medical records and itemization of  
14 charges to the court's clerk for admission at  
15 trial.

16 This bill would allow a patient to request  
17 all medical records from any medical provider,  
18 including itemization of charges and allow the  
19 custodian of those records to process the request  
20 and deliver the records in the same manner as  
21 requests for hospital records are processed.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 12-21-5, 12-21-6, and 12-21-7,  
2       Code of Alabama 1975, relating to reproducing medical records;  
3       to allow a patient to request his or her medical records from  
4       any, including itemization of charges, medical producers and  
5       allow the custodian of those records to process the request  
6       and deliver the records and itemization of charges in the same  
7       manner as requests for hospital records are processed.

8       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. Sections 12-21-5, 12-21-6, and 12-21-7,  
10      Code of Alabama 1975, are amended to read as follows:

11           "§12-21-5.

12           "(a) The term medical provider, as used in this  
13      section and Sections 12-21-6 and 12-21-7, means a physician,  
14      dentist, podiatrist, pharmacist, optometrist, psychologist,  
15      clinical social worker, advanced nurse practitioner,  
16      registered optician, physical therapist, chiropractor,  
17      hospital, medical clinic, rehabilitation center, home health  
18      agency, pharmacy, hospital, or any other person or facility  
19      that provides medical services to a person.

20           "(b) When the original would be admissible in any  
21      case or proceeding in a court in the state, a certified copy  
22      of the ~~hospital~~ records of ~~any hospital~~ a medical provider  
23      organized or operated under or pursuant to the laws of  
24      Alabama, including itemization of charges and records of  
25      admission, medical, ~~hospital~~, occupational, disease, injury  
26      and disability histories, temperature and other charts, X rays  
27      and written interpretations thereof, pictures, photographs,

1 files, written orders, directions, findings and reports and  
2 interpretations of physicians, doctors, surgeons,  
3 pathologists, radiologists, specialists, dentists, technicians  
4 and nurses, as well as of all employees of ~~such hospital~~ the  
5 medical provider, forming a part of ~~such hospital~~ the records  
6 of a medical provider, as to the health, condition, state,  
7 injuries, sickness, disease, mental, physical and nervous  
8 disorders, duration and character of disabilities, diagnosis,  
9 prognosis, progress, wounds, cuts, contusions, lacerations,  
10 breaks, loss of blood, incisions, operations, injuries,  
11 examinations, tests, transfusions, hospitalization and  
12 duration thereof, medication, medicines, supplies, treatment  
13 and care and the cost, expenses, fees and charges therefor and  
14 thereof, a part of, or shown on or in, ~~said hospital~~ records  
15 of the medical provider of any patient ~~in said hospital~~ of the  
16 medical provider, when certified and affirmed by the custodian  
17 of ~~said hospital~~ the medical provider records of the medical  
18 provider as provided in Section 12-21-7, shall be admissible  
19 in evidence, without further proof in any court in the state  
20 where admissible, if and when ~~said hospital~~ the records of the  
21 medical provider were made and kept in the usual and regular  
22 course of business of ~~said hospital~~ and it was in the regular  
23 course of business of ~~said hospital~~ the medical provider to  
24 make and keep ~~said~~ the records and that ~~said~~ the records were  
25 made at the time of ~~such~~ the acts, transactions, occurrences,  
26 or events therein referred to occurred or arose or were made,  
27 or within a reasonable time thereafter.

1                   "§12-21-6.

2                   "(a) A certified copy of ~~said hospital~~ the records  
3 of the medical provider may be procured by any litigant in any  
4 court of competent jurisdiction in the state by subpoena duces  
5 tecum, and when ~~any such~~ a subpoena duces tecum is issued for  
6 ~~said hospital~~ the records of the medical provider, the  
7 custodian of ~~said hospital~~ the records of the medical provider  
8 shall prepare a copy of ~~said hospital~~ the records of the  
9 medical provider as provided in this subsection and securely  
10 seal the same in an envelope or other container and date and  
11 fill out and sign a certificate in substantially the form  
12 provided in Section 12-21-7 and place on, or securely fasten  
13 ~~said~~ the certificate to the outside of, ~~said~~ the envelope or  
14 container in which ~~said~~ the copy of ~~said hospital~~ the records  
15 of the medical provider are placed and deliver the same to the  
16 clerk or register of the court hearing, or to hear or to try,  
17 the case or proceeding in which the records are sought, and he  
18 shall not otherwise be required to appear in court unless  
19 thereafter ordered to do so by the court. The copy of the  
20 ~~hospital~~ records of the medical provider shall not be open to  
21 inspection or copy by other persons than the parties to the  
22 case or proceeding and their attorneys until ordered published  
23 by the court trying the case at the time of the trial. When so  
24 prepared and certified, the copy of ~~said hospital~~ the records  
25 of the medical provider shall be admissible in evidence in any  
26 court in the state, if and when admissible, in prima facie  
27 proof of the facts therein shown just as if otherwise verified

1 and just as if the copy were the original. The copy of the  
2 ~~hospital~~ records of the medical provider may be photostated,  
3 photographed or made by microphotographic plate or film, or  
4 otherwise made, so long as clear and easily legible. All the  
5 circumstances of the making of ~~such hospital~~ the records of  
6 the medical provider, including lack of personal knowledge of  
7 the entrant or maker of ~~such hospital~~ the records of the  
8 medical provider, may otherwise be shown to affect the weight  
9 of ~~such hospital~~ the records of the medical provider, but this  
10 shall not affect their admissibility.

11 "(b) Repealed by Acts 1994, No. 94-609, p. 1124, §3.

12 "§12-21-7.

13 "The certificate of the custodian of the ~~hospital~~  
14 records of the medical provider provided for in Sections  
15 12-21-5 and 12-21-6 shall show the name of the parties to the  
16 case or proceeding and the name of the court to which made, by  
17 appropriate caption, and ~~said~~ the certificate shall be in form  
18 in substance as follows, to-wit:

19 "I, \_\_\_\_\_, hereby certify and affirm in writing that  
20 I am \_\_\_\_\_ of the \_\_\_\_\_ ~~Hospital~~, a ~~hospital~~ medical provider  
21 organized or operated pursuant to or under the laws of  
22 Alabama, located at \_\_\_\_\_, Alabama, that I am custodian of the  
23 ~~hospital~~ records of ~~said hospital~~ the medical provider and  
24 that the within copy of ~~said hospital~~ the records of the  
25 medical provider are an exact, full, true, and correct copy of  
26 ~~said hospital~~ the records of the medical provider pertaining  
27 to \_\_\_\_\_.

1                "I further certify that I am familiar with and know,  
2                and knew when made and charged, the reasonable value and price  
3                for the various charges made and shown in ~~said hospital~~ the  
4                records pertaining to \_\_\_\_\_ and that ~~said~~ the charges are  
5                in my judgment just, reasonable and proper and in keeping with  
6                those generally charged in the county and community where ~~said~~  
7                the hospital is located.

8                "All of which I hereby certify and affirm on this  
9                \_\_\_\_\_ day of \_\_\_\_\_, ~~1920~~ 1920."

10               Section 2. This act shall become effective on the  
11               first day of the third month following its passage and  
12               approval by the Governor, or its otherwise becoming law.