

1 HB73
2 171095-1
3 By Representative Wadsworth
4 RFD: Judiciary
5 First Read: 02-FEB-16

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, copies of hospital
9 records are admissible as evidence in judicial
10 trials.

11 Under existing law, a custodian of hospital
12 records who receives a subpoena from a litigant in
13 a court trial in Alabama for hospital records must
14 copy the records and forward the records to the
15 court clerk for admission at trial.

16 This bill would allow a litigant to request
17 records from a medical provider, as defined,
18 including itemization of charges, and would allow
19 the custodian of those records to process the
20 request and deliver the records to the litigant,
21 the court clerk for admission at trial, or to an
22 attorney of record for a trial involving the
23 records.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 To amend Sections 12-21-5, 12-21-6, and 12-21-7,
3 Code of Alabama 1975, relating to reproducing medical records;
4 to allow a litigant in a trial in Alabama to request medical
5 records from a medical provider and to allow the custodian of
6 those records to process the request and deliver the records
7 to the litigant, the clerk of a trial court, or an attorney of
8 record for a trial involving the requested records.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§12-21-5.

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

23 "(b) When the original would be admissible in any
24 case or proceeding in a court in the state, a certified copy
25 of the ~~hospital~~ records of any hospital a medical provider
26 organized or operated under or pursuant to the laws of
27 Alabama, including records of admission, medical, hospital,

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

1 ~~such~~ the acts, transactions, occurrences, or events therein
2 referred to occurred or arose or were made, or within a
3 reasonable time thereafter.

4 "§12-21-6.

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

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

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

13 "§12-21-7.

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

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

1 ~~said hospital~~ the records of the medical provider pertaining
2 to _____ .

3 "[If the medical provider has the requisite
4 knowledge and chooses to certify the reasonableness of
5 charges, he or she may do so, but is not required to do so.]

6 "I further certify that I am familiar with and know,
7 and knew when made and charged, the reasonable value and price
8 for the various charges made and shown in ~~said hospital~~ the
9 records pertaining to _____ and that ~~said~~ the charges are
10 in my judgment just, reasonable, and proper and in keeping
11 with those generally charged in the county and community where
12 ~~said the hospital~~ medical provider is located.

13 "All of which I hereby certify and affirm on this
14 _____ day of _____, 1920."

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