

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 172**

**Representative Schuring**

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**A BILL**

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

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

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

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

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

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

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

(l) A speech-language pathologist or audiologist licensed 46  
under Chapter 4753. of the Revised Code; 47

(m) An occupational therapist or occupational therapy 48  
assistant licensed under Chapter 4755. of the Revised Code; 49

(n) A physical therapist or physical therapy assistant 50  
licensed under Chapter 4755. of the Revised Code; 51

(o) A licensed professional clinical counselor, licensed 52  
professional counselor, social worker, independent social 53  
worker, independent marriage and family therapist, or marriage 54  
and family therapist licensed, or a social work assistant 55  
registered, under Chapter 4757. of the Revised Code; 56

(p) A dietitian licensed under Chapter 4759. of the 57  
Revised Code; 58

(q) A respiratory care professional licensed under Chapter 59  
4761. of the Revised Code; 60

(r) An emergency medical technician-basic, emergency 61  
medical technician-intermediate, or emergency medical 62  
technician-paramedic certified under Chapter 4765. of the 63  
Revised Code. 64

(5) "Health care provider" means a hospital, ambulatory 65  
care facility, long-term care facility, pharmacy, emergency 66  
facility, or health care practitioner. 67

(6) "Hospital" has the same meaning as in section 3727.01 68  
of the Revised Code. 69

(7) "Long-term care facility" means a nursing home, 70  
residential care facility, or home for the aging, as those terms 71  
are defined in section 3721.01 of the Revised Code; a 72  
residential facility licensed under section 5119.34 of the 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