OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 172

132nd General Assembly
(As Introduced)

Rep. Schuring

BILL SUMMARY

- Limits the definition of "medical record" for purposes of the law governing access to patient medical records.

CONTENT AND OPERATION

Patient access to medical records

Ohio law establishes procedures for examining and obtaining copies of patient medical records.[1] In general, on the request of a patient, patient's personal representative, or authorized person, a health care provider (*e.g.*, practitioner, hospital, or pharmacy) that has the patient's medical records must permit the patient to examine the record during regular business hours without charge or, on request, must provide a copy.[2] Ohio law also limits the amount a health care provider may charge for copies.[3]

Medical record definition

The bill revises the definition of a "medical record." Current law describes it as data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition that is ***generated and maintained*** by a health care provider ***in the process of the patient's health care treatment***. Under the bill, a medical record is

[1] R.C. 3701.74.

[2] R.C. 3701.74(B).

[3] R.C. 3701.741.

defined as data in any form . . . that is **designated** by a health care provider ***as the record of the patient's clinical care.***[4]

Litigation and access to records

The bill specifies that it does not limit any of the information that must be provided by a health care provider if the information relates to litigation.

Background – *Griffith v. Aultman Hospital*

A recent Ohio Supreme Court decision interpreted Ohio's definition of "medical record." In *Griffith v. Aultman Hospital*, the daughter of a patient sued the hospital alleging that it did not provide her with all of the medical record as she had requested.[5] Missing from the record were cardiac monitoring strips printed after the patient's discharge from the hospital and maintained by the hospital's risk management division, rather than its medical records department. The trial court ruled in favor of the hospital, concluding that it had produced the medical record as defined by state law. The appeals court agreed, noting that only records that a hospital determines need to be maintained in the process of caring for a patient and not everything having to do with the patient must be disclosed. It held that a patient's medical record consists of what is maintained by the medical records department; any information the health care provider decides not to maintain is not part of that record.

In a 5-2 decision, the Ohio Supreme Court reversed the appeals court, holding that the physical location of data is not relevant to determining whether it qualifies as a medical record. Instead, the issue is whether a health care provider decides to keep data that is generated in the process of a patient's treatment and that pertains to the patient's medical history, diagnosis, prognosis, or medical condition. The Supreme Court concluded that for purposes of the medical record definition, whether data is "maintained" by a healthcare provider (and therefore must be provided) is determined by whether the provider made a decision to keep or preserve the data.[6]

HISTORY

ACTION	DATE
Introduced	03-30-17

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[4] R.C. 3701.74(A)(8).

[5] 146 Ohio St.3d 196 (2016).

[6] *Griffith* at 201.