

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-413 and 32.1-127.1:03 of the Code of Virginia, relating to health care*
 3 *records; fees; certain requests by a patient or his attorney.*

4 [H 1629]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 8.01-413 and 32.1-127.1:03 of the Code of Virginia are amended and reenacted as follows:**

8 **§ 8.01-413. Certain copies of health care provider's health records of patient admissible; right of**
 9 **patient, his attorney and authorized insurer to copies of such health records; subpoena; damages, costs**
 10 **and attorney fees.**

11 A. In any case where the health records of a health care provider for any patient in a hospital or institution
 12 for the treatment of physical or mental illness are admissible or would be admissible as evidence, any
 13 typewritten copy, photograph, photostatted copy, or microphotograph or printout or other hard copy
 14 generated from computerized or other electronic storage, microfilm, or other photographic, mechanical,
 15 electronic, imaging, or chemical storage process thereof shall be admissible as evidence in any court of the
 16 Commonwealth in like manner as the original, if the printout or hard copy or microphotograph or photograph
 17 is properly authenticated by the employees having authority to release or produce the original health records.

18 Any health care provider whose health records relating to any such patient are subpoenaed for production
 19 as provided by law may comply with the subpoena by a timely mailing to the clerk issuing the subpoena or in
 20 whose court the action is pending properly authenticated copies, photographs or microphotographs in lieu of
 21 the originals. The court whose clerk issued the subpoena or, in the case of an attorney-issued subpoena, in
 22 which the action is pending, may, after notice to such health care provider, enter an order requiring
 23 production of the originals, if available, of any stored health records whose copies, photographs or
 24 microphotographs are not sufficiently legible.

25 Except as provided in subsection G, the party requesting the subpoena duces tecum or on whose behalf an
 26 attorney-issued subpoena duces tecum was issued shall be liable for the reasonable charges of the health care
 27 provider for the service of maintaining, retrieving, reviewing, preparing, copying, and mailing the items
 28 produced pursuant to subsections B2, B3, B4, and B6, as applicable.

29 B. Copies of health records, including an audit trail of any additions, deletions, or revisions to the health
 30 record, if specifically requested, shall be furnished within 30 days of receipt of such request to the patient, his
 31 attorney, his executor or administrator, or an authorized insurer upon such patient's, attorney's, executor's,
 32 administrator's, or authorized insurer's written request, which request shall comply with the requirements of
 33 subsection E of § 32.1-127.1:03. If a health care provider is unable to provide such health records within 30
 34 days of receipt of such request, such provider shall notify the requester of such health records in writing of
 35 the reason for the delay and shall have no more than 30 days after the date of such written notice to comply
 36 with such request.

37 However, copies of a patient's health records shall not be furnished to such patient when the patient's
 38 treating physician, clinical psychologist, clinical social worker, or licensed professional counselor in the
 39 exercise of professional judgment, has made a part of the patient's health records a written statement that in
 40 his opinion the furnishing to or review by the patient of such health records would be reasonably likely to
 41 endanger the life or physical safety of the patient or another person, or that such health records make
 42 reference to a person, other than a health care provider, and the access requested would be reasonably likely
 43 to cause substantial harm to such referenced person. In any such case, if requested by the patient or his
 44 attorney or authorized insurer, such health records shall be furnished within 30 days of the date of such
 45 request to the patient's attorney or authorized insurer, rather than to the patient.

46 If the health records are not provided to the patient in accordance with this section, then, if requested by
 47 the patient, the health care provider denying the request shall comply with the patient's request to either (i)
 48 provide a copy of the health records to a physician, clinical psychologist, clinical social worker, or licensed
 49 professional counselor of the patient's choice whose licensure, training, and experience, relative to the
 50 patient's condition, are at least equivalent to that of the treating physician, clinical psychologist, clinical social
 51 worker, or licensed professional counselor upon whose opinion the denial is based, who shall, at the patient's
 52 expense, make a judgment as to whether to make the health records available to the patient or (ii) designate a
 53 physician, clinical psychologist, clinical social worker, or licensed professional counselor whose licensure,
 54 training, and experience, relative to the patient's condition, are at least equivalent to that of the treating
 55 physician, clinical psychologist, clinical social worker, or licensed professional counselor upon whose
 56 opinion the denial is based and who did not participate in the original decision to deny the patient's request

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57 for his health records, who shall, at the expense of the provider denying access to the patient, review the
 58 health records and make a judgment as to whether to make the health records available to the patient. In
 59 either such event, the health care provider denying the request shall comply with the judgment of the
 60 reviewing physician, clinical psychologist, clinical social worker, or licensed professional counselor.

61 Except as provided in subsection G, a reasonable charge may be made by the health care provider
 62 maintaining the health records for the cost of the services relating to the maintenance, retrieval, review, and
 63 preparation of the copies of the health records, pursuant to subsections B2, B3, B4, and B6, as applicable.
 64 Any health care provider receiving such a request from a patient's attorney or authorized insurer shall require
 65 a writing signed by the patient confirming the attorney's or authorized insurer's authority to make the request,
 66 which shall comply with the requirements of subsection G of § 32.1-127.1:03, and shall accept a photocopy,
 67 facsimile, or other copy of the original signed by the patient as if it were an original.

68 B1. A health care provider shall produce the health records in either paper, hard copy, or electronic
 69 format, as requested by the requester. If the health care provider does not maintain the items being requested
 70 in an electronic format and does not have the capability to produce such items in an electronic format, such
 71 items shall be produced in paper or other hard copy format.

72 B2. When the health records requested pursuant to subsection B1 are produced in paper or hard copy
 73 format from records maintained in (i) paper or other hard copy format or (ii) electronic storage, a health care
 74 provider may charge the requester a reasonable fee not to exceed \$0.50 per page for up to 50 pages and \$0.25
 75 per page thereafter for such copies, \$1 per page for hard copies from microfilm or other micrographic
 76 process, and a fee for search and handling not to exceed \$20, plus all postage and shipping costs.

77 B3. When the health records requested pursuant to subsection B1 are produced in electronic format from
 78 health records maintained in electronic storage, a health care provider may charge the requester a reasonable
 79 fee not to exceed \$0.37 per page for up to 50 pages and \$0.18 per page thereafter for such copies and a fee for
 80 search and handling not to exceed \$20, plus all postage and shipping costs. Except as provided in subsection
 81 B4, the total amount charged to the requester for health records produced in electronic format pursuant to this
 82 subsection, including any postage and shipping costs and any search and handling fee, shall not exceed \$160
 83 for any request made on or after July 1, 2021, plus the reasonable costs to produce an audit trail of the health
 84 records, if specifically requested.

85 B4. When any portion of health records requested to be produced in electronic format is stored in paper or
 86 other hard copy format at the time of the request and not otherwise maintained in electronic storage, a health
 87 care provider may charge a fee pursuant to subsection B2 for the production of such portion, and such
 88 production of such portion is not subject to any limitations set forth in subsection B3, whether such portion is
 89 produced in paper or other hard copy format or converted to electronic format as requested by the requester.
 90 Any other portion otherwise maintained in electronic storage shall be produced electronically. The total
 91 search and handling fee shall not exceed \$20 for any production made pursuant to this subsection where the
 92 production contains both health records in electronic format and health records in paper or other hard copy
 93 format.

94 B5. Upon request, a patient's account balance or itemized listing of charges maintained by a health care
 95 provider shall be supplied at no cost up to three times every 12 months to either the patient or the patient's
 96 attorney.

97 B6. When the record requested is an X-ray series or study or other imaging study and is requested to be
 98 produced electronically, a health care provider may charge the requester a reasonable fee, which shall not
 99 exceed \$25 per X-ray series or study or other imaging study, and a fee for search and handling, which shall
 100 not exceed \$10, plus all postage and shipping costs. When an X-ray series or study or other imaging study is
 101 requested to be produced in hard copy format, or when a health care provider does not maintain such X-ray
 102 series or study or other imaging study being requested in an electronic format or does not have the capability
 103 to produce such X-ray series or study or other imaging study in an electronic format, a health care provider
 104 may charge the requester a reasonable fee, which may include a fee for search and handling not to exceed \$10
 105 and the actual cost of supplies for and labor of copying the requested X-ray series or study or other imaging
 106 study, plus all postage and shipping costs.

107 B7. *A health care provider shall provide one free copy of a patient's medical records stored or maintained*
 108 *in an electronic health record (EHR) per calendar year if requested by a patient or his attorney for the*
 109 *purpose of supporting a claim or appeal under Title II, XVI, XVIII, or XIX of the Social Security Act, 38*
 110 *U.S.C. § 101 et seq., or under any federal or state financial needs-based benefit program, provided that the*
 111 *request is supported by a reasonable amount of documentation, including evidence of representation in the*
 112 *Social Security disability courts such as the Social Security Administration Appointment of Representative*
 113 *form or a notice of or request for a hearing, regarding such purpose. Any additional requests for medical*
 114 *records in the same calendar year are subject to a reasonable fee for the production of the records. No fees*
 115 *shall be charged if no medical records are found in response to the request.*

116 B8. Upon request by the patient, or his attorney, of health records as to the cost to produce such health
 117 records, a health care provider shall inform the patient, or his attorney, of the most cost-effective method to
 118 produce such a request pursuant to subsection B2, B3, B4, ~~or B6, or B7~~ as applicable.

119 B8- B9. Production of health records to the patient, or his attorney, requested pursuant to this section shall
120 not be withheld or delayed solely on the grounds of nonpayment for such health records.

121 C. Upon the failure of any health care provider to comply with any written request made in accordance
122 with subsection B within the period of time specified in that subsection and within the manner specified in
123 subsections E and F of § 32.1-127.1:03, the patient, his attorney, his executor or administrator, or authorized
124 insurer may cause a subpoena duces tecum to be issued. The subpoena may be issued (i) upon filing a request
125 therefor with the clerk of the circuit court wherein any eventual suit would be required to be filed, and upon
126 payment of the fees required by subdivision A 18 of § 17.1-275, and fees for service or (ii) by the patient's
127 attorney in a pending civil case in accordance with § 8.01-407 without payment of the fees established in
128 subdivision A 23 of § 17.1-275.

129 A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business
130 days prior to the date production of the record is desired.

131 No subpoena duces tecum for health records shall set a return date by which the health care provider must
132 comply with such subpoena earlier than 15 days from the date of the subpoena, except by order of a court or
133 administrative agency for good cause shown. When a court or administrative agency orders that health
134 records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a
135 copy of such order shall accompany such subpoena.

136 As to a subpoena duces tecum issued with at least a 15-day return date, if no motion to quash is filed
137 within 15 days of the issuance of the subpoena, the party requesting the subpoena duces tecum or the party on
138 whose behalf the subpoena was issued shall certify to the subpoenaed health care provider that (a) the time
139 for filing a motion to quash has elapsed and (b) no such motion was filed. Upon receipt of such certification,
140 the subpoenaed health care provider shall comply with the subpoena duces tecum by returning the specified
141 health records by either (1) the return date on the subpoena or (2) five days after receipt of such certification,
142 whichever is later.

143 The subpoena shall direct the health care provider to produce and furnish copies of the health records to
144 the requester or clerk, who shall then make the same available to the patient, his attorney, or his authorized
145 insurer.

146 If the court finds that a health care provider willfully refused to comply with a written request made in
147 accordance with subsection B, either (A) by failing over the previous six-month period to respond to a second
148 or subsequent written request, properly submitted to the health care provider in writing with complete
149 required information, without good cause or (B) by imposing a charge in excess of the reasonable expense of
150 making the copies and processing the request for health records, the court may award damages for all
151 expenses incurred by the patient or authorized insurer to obtain such copies, including a refund of fees if
152 payment has been made for such copies, court costs, and reasonable attorney fees.

153 If the court further finds that such subpoenaed health records, subpoenaed pursuant to this subsection, or
154 requested health records, requested pursuant to subsection B, are not produced for a reason other than
155 compliance with § 32.1-127.1:03 or an inability to retrieve or access such health records, as communicated in
156 writing to the subpoenaing party or requester within the time period required by subsection B, such
157 subpoenaing party or requester shall be entitled to a rebuttable presumption that expenses and attorney fees
158 related to the failure to produce such health records shall be awarded by the court.

159 D. The provisions of this section shall apply to any health care provider whose office is located within or
160 outside the Commonwealth if the records pertain to any patient who is a party to a cause of action in any
161 court in the Commonwealth, and shall apply only to requests made by the patient, his attorney, his executor
162 or administrator, or any authorized insurer, in anticipation of litigation or in the course of litigation.

163 E. As used in this section, "health care provider" has the same meaning as provided in § 32.1-127.1:03
164 and includes an independent medical copy retrieval service contracted to provide the service of retrieving,
165 reviewing, and preparing such copies for distribution. As used in this section, "health record" has the same
166 meaning as provided in § 32.1-127.1:03.

167 F. Notwithstanding the authorization to admit as evidence health records in the form of microphotographs,
168 prescription dispensing records maintained in or on behalf of any pharmacy registered or permitted in the
169 Commonwealth shall only be stored in compliance with §§ 54.1-3410, 54.1-3411 and 54.1-3412.

170 G. The provisions of this section governing fees that may be charged by a health care provider whose
171 records are subpoenaed or requested pursuant to this section shall not apply in the case of any request by a
172 patient for a copy of his own health records, which shall be governed by subsection J of § 32.1-127.1:03. This
173 subsection shall not be construed to affect other provisions of state or federal statute, regulation or any case
174 decision relating to charges by health care providers for copies of health records requested by any person
175 other than a patient when requesting his own health records pursuant to subsection J of § 32.1-127.1:03.

176 **§ 32.1-127.1:03. Health records privacy.**

177 A. There is hereby recognized an individual's right of privacy in the content of his health records. Health
178 records are the property of the health care entity maintaining them, and, except when permitted or required by
179 this section or by other provisions of state law, no health care entity, or other person working in a health care
180 setting, may disclose an individual's health records.

181 Pursuant to this subsection:

182 1. Health care entities shall disclose health records to the individual who is the subject of the health
183 record, including an audit trail of any additions, deletions, or revisions to the health record, if specifically
184 requested, except as provided in subsections E and F and subsection B of § 8.01-413.

185 2. Health records shall not be removed from the premises where they are maintained without the approval
186 of the health care entity that maintains such health records, except in accordance with a court order or
187 subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the
188 regulations relating to change of ownership of health records promulgated by a health regulatory board
189 established in Title 54.1.

190 3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records
191 of an individual, beyond the purpose for which such disclosure was made, without first obtaining the
192 individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however,
193 prevent (i) any health care entity that receives health records from another health care entity from making
194 subsequent disclosures as permitted under this section and the federal Department of Health and Human
195 Services regulations relating to privacy of the electronic transmission of data and protected health
196 information promulgated by the United States Department of Health and Human Services as required by the
197 Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health
198 care entity from furnishing health records and aggregate or other data, from which individually identifying
199 prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not
200 limited to, pharmaceutical manufacturers and their agents or contractors, for purposes of clinical, pharmaco-
201 epidemiological, pharmaco-economic, or other health services research.

202 4. Health care entities shall, upon the request of the individual who is the subject of the health record,
203 disclose health records to other health care entities, in any available format of the requester's choosing, as
204 provided in subsection E.

205 B. As used in this section:

206 "Agent" means a person who has been appointed as an individual's agent under a power of attorney for
207 health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

208 "Certification" means a written representation that is delivered by hand, by first-class mail, by overnight
209 delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting
210 that all facsimile pages were successfully transmitted.

211 "Guardian" means a court-appointed guardian of the person.

212 "Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public
213 or private entity, such as a billing service, repricing company, community health management information
214 system or community health information system, and "value-added" networks and switches, that performs
215 either of the following functions: (i) processes or facilitates the processing of health information received
216 from another entity in a nonstandard format or containing nonstandard data content into standard data
217 elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or
218 facilitates the processing of health information into nonstandard format or nonstandard data content for the
219 receiving entity.

220 "Health care entity" means any health care provider, health plan or health care clearinghouse.

221 "Health care provider" means those entities listed in the definition of "health care provider" in §
222 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes
223 of this section. Health care provider shall also include all persons who are licensed, certified, registered or
224 permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the
225 Department of Health Professions, except persons regulated by the Board of Funeral Directors and
226 Embalmers or the Board of Veterinary Medicine.

227 "Health plan" means an individual or group plan that provides, or pays the cost of, medical care. "Health
228 plan" includes any entity included in such definition as set out in 45 C.F.R. § 160.103.

229 "Health record" means any written, printed or electronically recorded material maintained by a health care
230 entity in the course of providing health services to an individual concerning the individual and the services
231 provided. "Health record" also includes the substance of any communication made by an individual to a
232 health care entity in confidence during or in connection with the provision of health services or information
233 otherwise acquired by the health care entity about an individual in confidence and in connection with the
234 provision of health services to the individual.

235 "Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment,
236 pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as
237 payment or reimbursement for any such services.

238 "Individual" means a patient who is receiving or has received health services from a health care entity.

239 "Individually identifying prescription information" means all prescriptions, drug orders or any other
240 prescription information that specifically identifies an individual.

241 "Parent" means a biological, adoptive or foster parent.

242 "Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a

243 mental health professional, documenting or analyzing the contents of conversation during a private
 244 counseling session with an individual or a group, joint, or family counseling session that are separated from
 245 the rest of the individual's health record. "Psychotherapy notes" does not include annotations relating to
 246 medication and prescription monitoring, counseling session start and stop times, treatment modalities and
 247 frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status,
 248 treatment plan, or the individual's progress to date.

249 C. The provisions of this section shall not apply to any of the following:

250 1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia
 251 Workers' Compensation Act;

252 2. Except where specifically provided herein, the health records of minors;

253 3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to §
 254 16.1-248.3; or

255 4. The release of health records to a state correctional facility pursuant to § 53.1-40.10 or a local or
 256 regional correctional facility pursuant to § 53.1-133.03.

257 D. Health care entities may, and, when required by other provisions of state law, shall, disclose health
 258 records:

259 1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case
 260 of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors
 261 pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to §
 262 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written
 263 authorization, pursuant to the individual's oral authorization for a health care provider or health plan to
 264 discuss the individual's health records with a third party specified by the individual;

265 2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a
 266 grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena
 267 issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to
 268 an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be
 269 construed to prohibit any staff or employee of a health care entity from providing information about such
 270 individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

271 3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is
 272 reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's
 273 employees or staff against any accusation of wrongful conduct; also as required in the course of an
 274 investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized
 275 law-enforcement, licensure, accreditation, or professional review entity;

276 4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

277 5. In compliance with the provisions of § 8.01-413;

278 6. As required or authorized by law relating to public health activities, health oversight activities, serious
 279 threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public
 280 safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those
 281 contained in §§ 16.1-248.3, 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283,
 282 32.1-283.1, 32.1-320, 37.2-710, 37.2-839, 53.1-40.10, 53.1-133.03, 54.1-2400.6, 54.1-2400.7, 54.1-2400.9,
 283 54.1-2403.3, 54.1-2506, 54.1-2966, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

284 7. Where necessary in connection with the care of the individual;

285 8. In connection with the health care entity's own health care operations or the health care operations of
 286 another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in
 287 accordance with accepted standards of practice within the health services setting; however, the maintenance,
 288 storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or
 289 permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and
 290 54.1-3412;

291 9. When the individual has waived his right to the privacy of the health records;

292 10. When examination and evaluation of an individual are undertaken pursuant to judicial or
 293 administrative law order, but only to the extent as required by such order;

294 11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship
 295 proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§ 64.2-2000 et seq.)
 296 of Title 64.2;

297 12. To the guardian ad litem and any attorney appointed by the court to represent an individual who is or
 298 has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5 (§ 37.2-814
 299 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or a judicial
 300 authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

301 13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et seq.) of
 302 Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority or a
 303 designee of a community services board or behavioral health authority, or a law-enforcement officer
 304 participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, §

305 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any
306 health care provider evaluating or providing services to the person who is the subject of the proceeding or
307 monitoring the person's adherence to a treatment plan ordered under those provisions. Health records
308 disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the
309 person, or the public from physical injury or to address the health care needs of the person. Information
310 disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or
311 retained;

312 14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or
313 administrative proceeding, if the court or administrative hearing officer has entered an order granting the
314 attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health
315 care entity of such order;

316 15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in
317 accord with § 9.1-156;

318 16. To an agent appointed under an individual's power of attorney or to an agent or decision maker
319 designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ,
320 tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act
321 (§ 54.1-2981 et seq.);

322 17. To third-party payors and their agents for purposes of reimbursement;

323 18. As is necessary to support an application for receipt of health care benefits from a governmental
324 agency or as required by an authorized governmental agency reviewing such application or reviewing
325 benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or
326 disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

327 19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or
328 closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

329 20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate
330 threat to cause serious bodily injury or death of an identified or readily identifiable person;

331 21. Where necessary in connection with the implementation of a hospital's routine contact process for
332 organ donation pursuant to subdivision B 4 of § 32.1-127;

333 22. In the case of substance abuse records, when permitted by and in conformity with requirements of
334 federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

335 23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the
336 adequacy or quality of professional services or the competency and qualifications for professional staff
337 privileges;

338 24. If the health records are those of a deceased or mentally incapacitated individual to the personal
339 representative or executor of the deceased individual or the legal guardian or committee of the incompetent or
340 incapacitated individual or if there is no personal representative, executor, legal guardian or committee
341 appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter,
342 either parent, an adult brother or sister, or any other relative of the deceased individual in order of blood
343 relationship;

344 25. For the purpose of conducting record reviews of inpatient hospital deaths to promote identification of
345 all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and
346 regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's designated organ procurement
347 organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or
348 tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of
349 Tissue Banks;

350 26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2;

351 27. To an entity participating in the activities of a local health partnership authority established pursuant
352 to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

353 28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the
354 individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency
355 medical services or has refused emergency medical services and the health records consist of the prehospital
356 patient care report required by § 32.1-116.1;

357 29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a
358 suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against
359 Minors Registry Act, material witness, or missing person, provided that only the following information may
360 be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security
361 number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person,
362 (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical
363 characteristics of the person, and (viii) type of injury sustained by the person;

364 30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law
365 enforcement of the death if the health care entity has a suspicion that such death may have resulted from
366 criminal conduct;

367 31. To law-enforcement officials if the health care entity believes in good faith that the information
368 disclosed constitutes evidence of a crime that occurred on its premises;

369 32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person
370 or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§
371 32.1-48.05 et seq.) of Chapter 2;

372 33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed
373 emergency medical services agency when the records consist of the prehospital patient care report required
374 by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks
375 that are within the scope of his employment;

376 34. To notify a family member or personal representative of an individual who is the subject of a
377 proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et
378 seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's
379 health care, which may include the individual's location and general condition, when the individual has the
380 capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual
381 has been provided an opportunity to object to the notification and does not express an objection, or (iii) the
382 health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances
383 that the individual does not object to the notification. If the opportunity to agree or object to the notification
384 cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the
385 health care provider may notify a family member or personal representative of the individual of information
386 that is directly relevant to such person's involvement with the individual's health care, which may include the
387 individual's location and general condition if the health care provider, in the exercise of his professional
388 judgment, determines that the notification is in the best interests of the individual. Such notification shall not
389 be made if the provider has actual knowledge the family member or personal representative is currently
390 prohibited by court order from contacting the individual;

391 35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public
392 institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
393 education; and

394 36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to
395 monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

396 Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an
397 individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the
398 health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental
399 health are being taught under supervision to practice or to improve their skills in group, joint, family, or
400 individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful
401 conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take
402 precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of
403 an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized
404 law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

405 E. Health care records required to be disclosed pursuant to this section shall be made available
406 electronically only to the extent and in the manner authorized by the federal Health Information Technology
407 for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the Health Insurance
408 Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and implementing regulations.
409 Notwithstanding any other provision to the contrary, a health care entity shall not be required to provide
410 records in an electronic format requested if (i) the electronic format is not reasonably available without
411 additional cost to the health care entity, (ii) the records would be subject to modification in the format
412 requested, or (iii) the health care entity determines that the integrity of the records could be compromised in
413 the electronic format requested. Requests for copies of or electronic access to health records shall (a) be in
414 writing, dated and signed by the requester; (b) identify the nature of the information requested; and (c)
415 include evidence of the authority of the requester to receive such copies or access such records, and
416 identification of the person to whom the information is to be disclosed; and (d) specify whether the requester
417 would like the records in electronic format, if available, or in paper format. The health care entity shall accept
418 a photocopy, facsimile, or other copy of the original signed by the requester as if it were an original. Within
419 30 days of receipt of a request for copies of or electronic access to health records, the health care entity shall
420 do one of the following: (1) furnish such copies of or allow electronic access to the requested health records
421 to any requester authorized to receive them in electronic format if so requested; (2) inform the requester if the
422 information does not exist or cannot be found; (3) if the health care entity does not maintain a record of the
423 information, so inform the requester and provide the name and address, if known, of the health care entity
424 who maintains the record; or (4) deny the request (A) under subsection F, (B) on the grounds that the
425 requester has not established his authority to receive such health records or proof of his identity, or (C) as
426 otherwise provided by law. Procedures set forth in this section shall apply only to requests for health records
427 not specifically governed by other provisions of state law.

428 F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an individual's

429 health records shall not be furnished to such individual or anyone authorized to act on the individual's behalf
430 when the individual's treating physician, clinical psychologist, clinical social worker, or licensed professional
431 counselor has made a part of the individual's record a written statement that, in the exercise of his
432 professional judgment, the furnishing to or review by the individual of such health records would be
433 reasonably likely to endanger the life or physical safety of the individual or another person, or that such
434 health record makes reference to a person other than a health care provider and the access requested would be
435 reasonably likely to cause substantial harm to such referenced person. If any health care entity denies a
436 request for copies of or electronic access to health records based on such statement, the health care entity
437 shall inform the individual of the individual's right to designate, in writing, at his own expense, another
438 reviewing physician, clinical psychologist, clinical social worker, or licensed professional counselor whose
439 licensure, training and experience relative to the individual's condition are at least equivalent to that of the
440 physician, clinical psychologist, clinical social worker, or licensed professional counselor upon whose
441 opinion the denial is based. The designated reviewing physician, clinical psychologist, clinical social worker,
442 or licensed professional counselor shall make a judgment as to whether to make the health record available to
443 the individual.

444 The health care entity denying the request shall also inform the individual of the individual's right to
445 request in writing that such health care entity designate, at its own expense, a physician, clinical psychologist,
446 clinical social worker, or licensed professional counselor, whose licensure, training, and experience relative
447 to the individual's condition are at least equivalent to that of the physician, clinical psychologist, clinical
448 social worker, or licensed professional counselor upon whose professional judgment the denial is based and
449 who did not participate in the original decision to deny the health records, who shall make a judgment as to
450 whether to make the health record available to the individual. The health care entity shall comply with the
451 judgment of the reviewing physician, clinical psychologist, clinical social worker, or licensed professional
452 counselor. The health care entity shall permit copying and examination of the health record by such other
453 physician, clinical psychologist, clinical social worker, or licensed professional counselor designated by
454 either the individual at his own expense or by the health care entity at its expense.

455 Any health record copied for review by any such designated physician, clinical psychologist, clinical
456 social worker, or licensed professional counselor shall be accompanied by a statement from the custodian of
457 the health record that the individual's treating physician, clinical psychologist, clinical social worker, or
458 licensed professional counselor determined that the individual's review of his health record would be
459 reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to
460 cause substantial harm to a person referenced in the health record who is not a health care provider.

461 Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of,
462 or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his
463 behalf.

464 G. A written authorization to allow release of an individual's health records shall substantially include the
465 following information:

466 **AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS**

467 Individual's Name _____

468 Health Care Entity's Name _____

469 Person, Agency, or Health Care Entity to whom disclosure is to be made

470 _____
471 Information or Health Records to be disclosed

472 _____
473 Purpose of Disclosure or at the Request of the Individual

474 _____
475 As the person signing this authorization, I understand that I am giving my permission to the above-named
476 health care entity for disclosure of confidential health records. I understand that the health care entity may not
477 condition treatment or payment on my willingness to sign this authorization unless the specific circumstances
478 under which such conditioning is permitted by law are applicable and are set forth in this authorization. I also
479 understand that I have the right to revoke this authorization at any time, but that my revocation is not
480 effective until delivered in writing to the person who is in possession of my health records and is not effective
481 as to health records already disclosed under this authorization. A copy of this authorization and a notation
482 concerning the persons or agencies to whom disclosure was made shall be included with my original health
483 records. I understand that health information disclosed under this authorization might be redisclosed by a
484 recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health
485 information was protected by law while solely in the possession of the health care entity.

486 This authorization expires on (date) or (event) _____

487 Signature of Individual or Individual's Legal Representative if Individual is Unable to Sign

488 _____
489 Relationship or Authority of Legal Representative

490

491 Date of Signature _____

492 H. Pursuant to this subsection:

493 1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative
494 action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records
495 or cause a subpoena duces tecum to be issued by an attorney unless a copy of the request for the subpoena or
496 a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se,
497 simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall
498 request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a
499 copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty
500 witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

501 No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of
502 the subpoena except by order of a court or administrative agency for good cause shown. When a court or
503 administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than
504 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

505 Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces
506 tecum is being issued shall have the duty to determine whether the individual whose health records are being
507 sought is pro se or a nonparty.

508 In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the
509 party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the
510 copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a
511 statement informing them of their rights and remedies. The statement shall include the following language
512 and the heading shall be in boldface capital letters:

513 **NOTICE TO INDIVIDUAL**

514 The attached document means that (insert name of party requesting or causing issuance of the subpoena)
515 has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the
516 other party's attorney to your doctor, other health care providers (names of health care providers inserted
517 here) or other health care entity (name of health care entity to be inserted here) requiring them to produce
518 your health records. Your doctor, other health care provider or other health care entity is required to respond
519 by providing a copy of your health records. If you believe your health records should not be disclosed and
520 object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative
521 agency to quash the subpoena. If you elect to file a motion to quash, such motion must be filed within 15 days
522 of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the
523 administrative agency to determine the requirements that must be satisfied when filing a motion to quash and
524 you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must
525 notify your doctor, other health care provider(s), or other health care entity, that you are filing the motion so
526 that the health care provider or health care entity knows to send the health records to the clerk of court or
527 administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

528 2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an
529 individual's health records shall include a Notice in the same part of the request in which the recipient of the
530 subpoena duces tecum is directed where and when to return the health records. Such notice shall be in
531 boldface capital letters and shall include the following language:

532 **NOTICE TO HEALTH CARE ENTITIES**

533 **A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL**
534 **WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT**
535 **INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED**
536 **SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION**
537 **WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.**

538 **YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN**
539 **CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT**
540 **THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:**

541 **NO MOTION TO QUASH WAS FILED; OR**

542 **ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE**
543 **AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.**

544 **IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING**
545 **REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION**
546 **TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO THE CLERK**
547 **OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH**
548 **THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING**
549 **PROCEDURE:**

550 **PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED**
551 **ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY**

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552 WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE
 553 HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE
 554 SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE
 555 OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.

556 3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty
 557 to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

558 4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed
 559 envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records
 560 until they have received a certification as set forth in subdivision 5 or 8 from the party on whose behalf the
 561 subpoena duces tecum was issued.

562 If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if
 563 the health care entity files a motion to quash the subpoena for health records, then the health care entity shall
 564 produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency
 565 issuing the subpoena or in whose court or administrative agency the action is pending. The court or
 566 administrative agency shall place the health records under seal until a determination is made regarding the
 567 motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative
 568 agency. In the event the court or administrative agency grants the motion to quash, the health records shall be
 569 returned to the health care entity in the same sealed envelope in which they were delivered to the court or
 570 administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be
 571 opened to review the health records in camera, a copy of the order shall accompany any health records
 572 returned to the health care entity. The health records returned to the health care entity shall be in a securely
 573 sealed envelope.

574 5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued
 575 subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed
 576 health care entity that the time for filing a motion to quash has elapsed and that no motion to quash was filed.
 577 Any health care entity receiving such certification shall have the duty to comply with the subpoena duces
 578 tecum by returning the specified health records by either the return date on the subpoena or five days after
 579 receipt of the certification, whichever is later.

580 6. In the event that the individual whose health records are being sought files a motion to quash the
 581 subpoena, the court or administrative agency shall decide whether good cause has been shown by the
 582 discovering party to compel disclosure of the individual's health records over the individual's objections. In
 583 determining whether good cause has been shown, the court or administrative agency shall consider (i) the
 584 particular purpose for which the information was collected; (ii) the degree to which the disclosure of the
 585 records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on
 586 the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v)
 587 any other relevant factor.

588 7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed
 589 health records have been submitted by a health care entity to the court or administrative agency in a sealed
 590 envelope, the court or administrative agency shall: (i) upon determining that no submitted health records
 591 should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon
 592 determining that all submitted health records should be disclosed, provide all the submitted health records to
 593 the party on whose behalf the subpoena was issued; or (iii) upon determining that only a portion of the
 594 submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena
 595 was issued and return the remaining health records to the health care entity in a sealed envelope.

596 8. Following the court or administrative agency's resolution of a motion to quash, the party on whose
 597 behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health
 598 care entity a statement of one of the following:

599 a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures
 600 sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records
 601 previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be
 602 returned to the health care entity;

603 b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures
 604 sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have
 605 previously been delivered to the court or administrative agency by the health care entity, the health care entity
 606 shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by
 607 the return date on the subpoena or five days after receipt of certification, whichever is later;

608 c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures
 609 sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall
 610 be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or
 611 administrative agency will be returned to the health care entity;

612 d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures

613 sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure
 614 has been authorized. The certification shall state that only the portion of the health records as set forth in the
 615 certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification
 616 shall also state that health records that were previously delivered to the court or administrative agency for
 617 which disclosure has been authorized will not be returned to the health care entity; however, all health
 618 records for which disclosure has not been authorized will be returned to the health care entity; or

619 e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures
 620 sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have
 621 previously been delivered to the court or administrative agency by the health care entity, the health care entity
 622 shall return only those health records specified in the certification, consistent with the court or administrative
 623 agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is
 624 later.

625 A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to
 626 this subdivision.

627 9. The provisions of this subsection have no application to subpoenas for health records requested under §
 628 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or
 629 proceedings regarding a health care entity's conduct.

630 The provisions of this subsection shall apply to subpoenas for the health records of both minors and
 631 adults.

632 Nothing in this subsection shall have any effect on the existing authority of a court or administrative
 633 agency to issue a protective order regarding health records, including, but not limited to, ordering the return
 634 of health records to a health care entity, after the period for filing a motion to quash has passed.

635 A subpoena for substance abuse records must conform to the requirements of federal law found in 42
 636 C.F.R. Part 2, Subpart E.

637 I. Health care entities may testify about the health records of an individual in compliance with §§
 638 8.01-399 and 8.01-400.2.

639 J. *¶ Except as provided by subsection B7 of § 8.01-413, if an individual requests a copy of his health*
 640 *record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall*
 641 *include only the cost of supplies for and labor of copying the requested information, postage when the*
 642 *individual requests that such information be mailed, and preparation of an explanation or summary of such*
 643 *information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a*
 644 *person with authority to act on behalf of the individual who is the subject of the health record in making*
 645 *decisions related to his health care.*

646 K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a controlled
 647 substance required to be reported to the Prescription Monitoring Program established pursuant to Chapter
 648 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from the
 649 Prescription Monitoring Program and contained in a patient's health care record to another health care
 650 provider when such disclosure is related to the care or treatment of the patient who is the subject of the
 651 record.

652 L. An authorization for the disclosure of health records executed pursuant to this section shall remain in
 653 effect until (i) the authorization is revoked in writing and delivered to the health care entity maintaining the
 654 record that is subject to the authorization by the person who executed the authorization, (ii) any expiration
 655 date set forth in the authorization, or (iii) the health care entity maintaining the record becomes aware of any
 656 expiration event described in the authorization, whichever occurs first. However, any revocation of an
 657 authorization for the disclosure of health records executed pursuant to this section shall not be effective to the
 658 extent that the health care entity maintaining the record has disclosed health records prior to delivery of such
 659 revocation in reliance upon the authorization or as otherwise provided pursuant to 45 C.F.R. § 164.508. A
 660 statement in an authorization for the disclosure of health records pursuant to this section that the information
 661 to be used or disclosed is "all health records" is a sufficient description for the disclosure of all health records
 662 of the person maintained by the health care provider to whom the authorization was granted. If a health care
 663 provider receives a written revocation of an authorization for the disclosure of health records in accordance
 664 with this subsection, a copy of such written revocation shall be included in the person's original health record
 665 maintained by the health care provider.

666 An authorization for the disclosure of health records executed pursuant to this section shall, unless
 667 otherwise expressly limited in the authorization, be deemed to include authorization for the person named in
 668 the authorization to assist the person who is the subject of the health record in accessing health care services,
 669 including scheduling appointments for the person who is the subject of the health record and attending
 670 appointments together with the person who is the subject of the health record.