

HOUSE BILL 2651

By Brooks K

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 2, Part 1 and Title 68, Chapter 11, Part 15, to enact the "Colby Stansberry Act" relative to the authorized release of medical records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Colby Stansberry Act".

SECTION 2. Tennessee Code Annotated, Section 63-2-101(b), is amended by adding the following language as a new subdivision (3):

(3) Except as otherwise authorized in this section, title 68, chapter 11, part 3, and title 68, chapter 11, part 15, no health care provider shall release a patient's medical records to a person other than the patient, or the patient's authorized representative, unless such release is authorized through the informed consent of the patient or the patient's authorized representative. If, prior to obtaining such consent for the release of a patient's records, the patient dies or is incapacitated, then such release shall be contingent upon receiving the informed consent of the patient's authorized representative or, if the patient has no authorized representative, the patient's next of kin. Any violation of this provision shall be an invasion of the patient's right to privacy.

SECTION 3. Tennessee Code Annotated, Section 63-2-101(c), is amended by adding the following language as new, appropriately designated subdivisions:

() "Incapacitated" means that a patient is in a physical or mental condition such that the patient is incapable of granting or denying informed consent;

() "Informed consent" means written consent to the disclosure of all or part of a patient's medical records that:

(A) Is handwritten by the person who signs the consent or is in a typeface of no less than 14-point font;

(B) Is clearly separate from any other language present on the same page and is executed by a signature which serves no other purpose than to execute the authorization; and

(C) Includes the following:

(i) The name of the patient whose records will be disclosed;

(ii) The type of information to be disclosed;

(iii) The name of the facility or provider to whom consent is given;

(iv) The permitted purpose or purposes of the disclosure;

(v) The individuals, agencies or organizations to whom disclosure may be made;

(vi) The signature of the patient or the authorized representative of the patient and, if signed by the authorized representative of the patient, the relationship of that person to the patient or the authority of the person;

(vii) The date on which the consent is signed; and

(viii) The time period during which the consent is effective;

SECTION 4. Tennessee Code Annotated, Section 68-11-1503(a), is amended by deleting the language prior to subdivision (1) in its entirety and by substituting instead the following:

Except as otherwise provided in this part, § 63-2-101, and title 68, chapter 11, part 3, the medical records, including, but not limited to, the name and address and other identifying information of a patient, shall not be disclosed to any person other than the patient or the

patient's authorized representative without the informed consent of the patient, or the patient's authorized representative, except for:

SECTION 5. Tennessee Code Annotated, Section 68-11-1503, is amended by adding the following language as new, appropriately designated subsections:

() If, prior to providing informed consent for the release of a patient's records, the patient dies or is incapacitated, then such release shall be contingent upon the informed consent of the patient's authorized representative or, if the patient has no authorized representative, the patient's next of kin.

() For the purposes of this part,

(1) "Incapacitated" means that a patient is in a physical or mental condition such that the patient is incapable of granting or denying informed consent;

(2) "Informed consent" means written consent to the disclosure of all or part of a patient's medical records that:

(A) Is handwritten by the person who signs the consent or is in a typeface of no less than 14-point font;

(B) Is clearly separate from any other language present on the same page and is executed by a signature which serves no other purpose than to execute the authorization; and

(C) Includes the following:

(i) The name of the patient whose records will be disclosed;

(ii) The type of information to be disclosed;

(iii) The name of the facility or provider to whom consent is given;

(iv) The permitted purpose or purposes of the disclosure;

(v) The individuals, agencies or organizations to whom disclosure may be made;

(vi) The signature of the patient or the authorized representative of the patient and, if signed by the authorized representative of the patient, the relationship of that person to the patient or the authority of the person;

(vii) The date on which the consent is signed; and

(viii) The time period during which the consent is effective;

(3) "Medical records" means "hospital records" as that term is defined in

§ 68-11-302.

SECTION 6. This act shall take effect on upon becoming a law, the public welfare requiring it.