

Medical Records Information

Board of Registration in Medicine regulations allow patients to obtain copies of their medical records and limit what a physician can charge for these copies. These regulations apply to private physicians' solo and group practices only. *They do not apply to records maintained by hospitals.* The Department of Public Health has jurisdiction over medical records at hospitals.

Board Regulations

Maintenance of Medical Records

Massachusetts Law 243 CMR 2.07 (13) (a), requires that a physician maintain medical records for seven years from the date of last patient contact or until the patient is nine years old, if longer than seven years.

- A retiring physician, his/her successor, or the estate of a deceased physician must maintain a patient's record under this regulation.
- After seven years, physicians can give former patients their original medical records or destroy them. There is no requirement that the physician notify patients before destroying the records. Therefore, it is wise to request a copy of your medical record when changing physicians.
- A patient is entitled to receive a copy of his or her medical record, not the original. Most patients assume that the record belongs to them since the medical record concerns them. The Board requires that a physician maintain the original to ensure that the patient's medical history is available to assist any subsequent health care provider treating the patient. To that end, the record should be legible and understandable to another health care provider.

Who Can Obtain a Copy and How Long Should it Take

243 CMR 2.07 (13) (b) requires a physician to provide copies of a medical record in a timely manner to the patient or patient's representative. The copies may be for the patient, another licensee or other specifically authorized person, i.e., an attorney, insurance company or family member.

- If a physician's record includes records of the patient's former physician(s), the entire record should be copied.
- A patient's medical record cannot be released to a spouse, family member, attorney or any other person without the patient's express authorization, except when directed by a written court order or if the patient is a minor. If a patient is deceased, the duly appointed executor or administrator of the estate may obtain copies of the medical record.

- The regulation requires records to be provided in a timely manner. Usually two to three weeks is considered reasonable. If a physician leaves a practice, it can take much longer, as hundreds or thousands of records can be involved. In a medical emergency, records should be provided as soon as possible.

Copying Cost

The Board regulation which pertains to charges for providing copies of medical records, 243 CMR 2.07 (13) (c), allows a fee of \$0.25 per page for copies of the medical record and \$20.00 per hour for clerical time necessary to provide the copies of the medical record. Charges for copies of x-rays and similar documents not reproducible by ordinary photocopying shall be at the physician's actual cost, plus reasonable clerical fees not in excess of \$20.00 per hour.

- Physicians may **not** refuse to release a copy of your medical record if you owe money for medical services. They may, however, hold the copy until you pay the cost to reproduce the record.
- A flat fee for a copy of a medical record is acceptable only if the prorated, page by page charge for the record exceeds the flat fee. You should ask the physician how many pages are in your medical record, multiply the number of pages by \$0.25 and add an estimated amount for clerical time. If, *after receiving the information from the physician*, you believe that the Board's regulations are not being followed, you may file a complaint against the physician.

Psychiatric Records

The Board regulation which pertains to providing copies of medical records relating to mental health, 243 CMR 2.07 (13) (e), allows a physician to provide a summary of the record instead of a copy if the physician believes that the information contained in the medical record would be harmful to the patient's well being. However, a copy of the entire psychiatric record must be provided to another psychotherapist or the patient's attorney, at the patient's request.

Medical Reports

Patients may contract with a physician to write a report regarding a medical condition. These reports usually relate to a lawsuit or Worker's Compensation claim. The Board does **not** have jurisdiction over medical reports. You should negotiate with a physician to set the price of the report in advance or take a copy of your records to another physician if you believe the price is too high or if your physician will not write the report.

Medical Evaluations

In circumstances when an insurance company or employer sends an insured or employee for an examination, the Board's medical records regulations do not apply as this falls outside the traditional patient-physician relationship. You should contact your employer or insurance company to obtain a copy of a report or records pertaining to an evaluation. M.G.L. Chapter 149, Section 19A, states that any employer requiring a physical examination of an employee shall, upon request, provide a copy of the medical report to the employee following the examination.

General Advice

Consumers often must change physicians when their health insurance company changes. The Consumer Protection Unit recommends that you request that a copy of your records be sent to you, rather than your new physician, so that you may keep a copy for your records and make a copy for any new physician. This saves time and money as you can copy the record more cheaply and no wait is required.

Parents should also keep copies of their children's immunization records. When they enter school or college years later, the children's records may no longer exist. Without the records, the children will have to be re-immunized.

How to Request a Copy of Your Medical Record

In order to investigate a complaint alleging failure to provide a copy of medical records, the Board requires proof that a copy has been requested in writing.

- Send a written request to the physician and keep a copy of the letter for your records. Include your name, date of birth, treatment period and address where you want the records sent. You should send the letter by certified mail, return receipt requested. You will receive a green postcard back from the Post Office which confirms that your request was received.
- If your letter is returned as unclaimed, call the physician's office to see if the letter was not claimed in error. Remember to write down the time, date, person you spoke with and any message. If the office is closed or there is no response, fill out the Board's complaint form and attach copies of your letter and the unclaimed envelope.
- If your letter was received and you do not receive a copy of your medical record within three weeks, fill out the Board's complaint form and attach a **copy** of your letter to the physician and a **copy** of the green postcard.

Disclaimer

The preceding information is an interpretation of the Board's regulations and advice given by the Consumer Protection Unit. The information is provided for the benefit of consumers and is subject to change. You may refer to the Board's regulations, 243 CMR 1.0, for more information.

You may purchase a copy of the Board's regulations, 243 CMR 1.0, from the State House Bookstore by sending a check or money order for \$6.15 (made payable to the Commonwealth of Massachusetts), along with \$2.60 postage affixed to a self-addressed 9" x 12" envelope to the State House Book Store, State House, Room 116, Boston, MA 02133. You may also find this information in law libraries and some town libraries.

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