



Release of Medical Records

Guidelines to follow for obtaining copies of your medical records.

New York State courts have consistently held that medical records, including radiographic films, are the property of the physician or the facility that created the records.

Although the physician or facility owns the medical record, New York State permits patients to obtain copies of their medical records, whether they are paper or radiographic films.

Physicians and other providers may require "reasonable charges" for the inspection and copying of medical records, which may not exceed \$0.75 per page. However, a provider cannot deny a qualified individual access to patient information solely because of the individual's inability to pay.

Special rules apply for mammograms.

Patient Access to Record

NYS allows patients or qualified persons, subject to certain limited exceptions, direct access to the patients' medical records by either inspecting or receiving a copy of the medical records.

Upon the written request of a qualified person, a health care practitioner or facility must, within a reasonable time, furnish the qualified person with a copy of any patient information requested, which the qualified person is authorized to inspect. Although reasonable time is not defined in the statute, the New York State Department of Health has indicated that a reasonable time within which to provide copies of the patient information is between 10 and 14 days. Certain licensed facilities, such as nursing homes, must provide copies of records within 24 hours after receipt of a written release for the records.

Who is a Qualified person

A qualified person is defined as:

- Any identified subject whose patient information is maintained or possessed (the patient);
- A guardian for an incapacitated person pursuant to MHL article 81;
- A parent of an infant, a guardian of an infant appointed by NY Surrogate's Court Procedure Act article 17 or any other legally appointed guardian of an infant who may be entitled to request access to a clinical record; or
- An attorney representing or acting on behalf of the patient or the patient's estate. Any request made the attorney on behalf of the patient's estate should be accompanied by let-

ters testamentary or letters of administration issued by the surrogate's court.

A deceased patient's personal representative or next-of-kin is not included in the definition of qualified person. Therefore, a health care practitioner or facility is not required to release copies of the decedent's medical records to the decedent's spouse unless the spouse has been appointed as the executor/executrix or administrator/administratrix of the estate.

Denial of Access to Medical Records

NYS law provides for certain limitations on a patient's or qualified person's access to the medical record. Access to the medical records may be denied if, upon the receipt of a written request by a patient or qualified person to inspect or copy medical records, the health care practitioner determines that the information requested:

- Can reasonably be expected to cause substantial and identifiable harm to the patient or others,
- Is a personal note or observation, or
- In the case of a minor, would have a detrimental effect on the health care practitioner's professional relationship with the minor or on the minor's care or treatment.

What Constitutes a Good Medical Record?

A good medical record must be complete, meaning that it should contain the following information:

- Date of the patient visit
- Appropriate identification data
- Medical history
- Reports of physical examinations
- Diagnostic and therapeutic orders
- Evidence of appropriate informed consent
- Clinical observations
- Reports and results of procedures and tests
- Conclusion upon termination of care

Medical Society of the County of Erie

*"Better Health Through Advocacy"[™]
"If Not You... Who?"[™]*



1317 Harlem Road * Buffalo, New York 14206
Phone: (716) 852-1810
Web site: www.eriemsd.org

This publication is a product of the Medical Society of the County of Erie. For more information, please contact our office.