

## **ACCESS TO MEDICAL RECORDS**

New York State Law, effective January 1, 1987, gives patients or their parents or guardians access to medical records by Section 18 of the Public Health Law, which was enacted in Chapter 497 of the Laws of 1986. There are some restrictions on what may be obtained and fees may be charged by physicians, other health care professionals and facilities for providing copies.



### **Who can request medical records?**

An individual can request his or her own medical records. The law also permits access by other “qualified persons.” This includes parents or guardians when they approved the care or when it was provided on an emergency basis. Attorneys representing patients may also request records, as can a committee appointed to represent the needs of an incompetent patient.

### **How should I request the records?**

A request for medical records must be made in writing to either the individual physician or the health care facility. The request should indicate that a qualified person is making the request and should be as precise as possible. The request should identify the provider from whom the information is requested and describe the information being sought. If the records are to be sent to a third party, such as another physician, provide the name and address of that individual. Requests must be signed. A practitioner or institution may request that the signature be notarized.

### **How long will it take to see my records?**

Once your request is received, a physician or health care facility has 10 days to provide you with an opportunity to inspect your records. The law does not provide a specific time period by which copies of medical records must be provided. However, the state Health Department considers 10 to 14 days to be a reasonable time in which a practitioner should respond to such a request.

### **If I want copies of my records, do I have to pay for them?**

The law allows physicians and institutions to charge no more than 75 cents a page, plus postage, for paper copies of medical records. However, an individual cannot be denied access to information solely because he or she is unable to pay.

### **Can a physician or institution charge a search and retrieval fee for getting my records?**

No.

### **Can a physician refuse to let me see my records if I haven't paid my medical bill?**

No.

### **What information can I see?**

All information concerning or relating to your examination or treatment must be available for your review.

## **Is there any information that can be denied to me?**

**Yes. A physician can deny you access to the following:**

- **Personal notes and observations.**
- **Information disclosed to the practitioner under the condition that it would be kept confidential.**
- **Information that the practitioner believes should not be disclosed regarding the treatment of a minor. A patient over age 12 may be advised of a records request and, if he or she objects, the provider may deny the request.**
- **Information the physician believes may cause substantial harm to the patient or others.**
- **Information obtained from other physicians who are still in practice. That information should be requested directly from those practitioners.**
- **Substance abuse program records and clinical records of facilities licensed or operated by the Office of Mental Health. Mental Hygiene Law provides a separate process for release of these records.**

## **Can denial of access be appealed?**

**Yes. If access to any or all of your records is denied, you may appeal. When a physician denies you access, he or she must provide you with a form explaining the appeals process.**

## **What are some differences of Section 18 (NY State Law) and the Federal Regulations?**

**In some instances where a patient or a patient's personal representative has no right to access health information under state law, a right of access may nevertheless exist under federal law. Health care providers that are required to comply with the federal law known as the Health Insurance Portability and Accountability Act (HIPAA) generally must provide patients with access to all medical records and billing records. Many of the exceptions that exist in state law do not exist in the federal law. New York does not enforce HIPAA. HIPAA is enforced by the Office for Civil Rights in the United States Department of Health & Human Services.**

**INFORMATION FROM NEW YORK STATE DEPARTMENT OF HEALTH**  
<http://www.health.state.ny.us>

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