

N.J.A.C. 8:43G-15.3

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TITLE 8. HEALTH
CHAPTER 43G. HOSPITAL LICENSING STANDARDS
SUBCHAPTER 15. MEDICAL RECORDS

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N.J.A.C. 8:43G-15.3 (2016)

§ 8:43G-15.3 Medical record patient services

(a) Health care practitioners who provide clinical services to the patient shall enter clinical/progress notes in the patient's medical record, when the services are rendered.

(b) Notes that provide a full and accurate description of the care provided to the patient shall be made in the medical record at the time clinical services are provided. Notes that provide a description and an evaluation of the patient's response to treatment shall be made in the medical record.

(c) The medical record shall either accompany the patient when he or she leaves the patient care unit for clinical services in other departments of the hospital or shall be retrievable by authorized personnel on a computerized system with a restricted access and entry system.

(d) If a patient or the patient's legally authorized representative requests, in writing, a copy of his or her medical record, a legible, written copy of the record shall be furnished at a fee based on actual costs. One copy of the medical record from an individual admission shall be provided to the patient or the patient's legally authorized representative within 30 days of the request, in accordance with the following:

1. The fee for copying records shall not exceed \$ 1.00 per page or \$ 100.00 per record for the first 100 pages. For records which contain more than 100 pages, a copying fee of no more than \$ 0.25 per page may be charged for pages in excess of the first 100 pages, up to a maximum of \$ 200.00 for the entire record;

2. In addition to per page costs, the following charges are permitted:

i. A search fee of no more than \$ 10.00 per patient per request. (Although the patient may have had more than one admission, and thus more than one record is provided, only one search fee shall be permitted for that request. The search fee is permitted even though no medical record is found as a result of the search.); and

ii. A postage charge of actual costs for mailing. No charges shall be assessed other than those permitted in (d)1 and 2 above;

3. The hospital shall establish a policy assuring access to copies of medical records for patients who do not have the ability to pay; and

4. The hospital shall establish a fee policy providing an incentive for use of abstracts or summaries of medical records. The patient or his or her representative, however, has a right to receive a full or certified copy of the medical record.

5. For purposes of this subsection, "legally authorized representative" means the following:

i. Spouse, domestic partner or civil union partner;

ii. Immediate next of kin;

iii. Legal guardian;

iv. Patient's attorney;

v. Patient's third party insurer; and

vi. Worker's compensation carriers, where access is permitted by contract or law, but limited only to that portion of the medical record which is relevant to the specific work-related incident at issue in the worker's compensation claim.

(e) The fee for copying medical records shall be based on actual costs, which in no case shall exceed \$ 1.00 per page and \$ 10.00 per search, in the case of the following:

1. Where the patient has authorized release of his or her medical record to a person or entity other than those identified in (d) above, including but not limited to physicians or other practitioners who provided care to the patient, or attorneys representing such providers; or

2. The patient subsequently requests additional copies of a medical record which has been furnished in accordance with (d) above.

(f) Access to the medical record shall be limited only to the extent necessary to protect the patient. A verbal explanation for any denial of access shall be given to the patient or legal guardian by the physician and there shall be documentation of this in the medical record. In the event that direct access to a copy by the patient is medically contraindicated (as documented by a physician in the patient's medical record), the medical record shall be made available to a legally authorized representative of the patient or the patient's physician.

(g) The patient shall have the right to attach a brief comment or statement to his or her medical record after completion of the medical record.

HISTORY:

Amended by R.1992 d.72, effective February 18, 1992.

See: 23 N.J.R. 2590(a), 24 N.J.R. 590(a).

Record copying fees and standards specified at (d) through (g).

Petition for Rulemaking.

See: 29 N.J.R. 5335(a), 30 N.J.R. 3338(a).

Amended by R.1999 d.436, effective December 20, 1999.

See: 31 N.J.R. 367(a), 31 N.J.R. 614(a), 31 N.J.R. 4293(c).

Rewrote the section.

Petition for Rulemaking.

See: 35 N.J.R. 1962(a), 2751(b), 4333(a).

Administrative change.

See: 36 N.J.R. 1192(a).

Amended by R.2011 d.055, effective February 22, 2011.

See: 42 N.J.R. 1774(a), 42 N.J.R. 2561(a), 43 N.J.R. 401(b).

In (d)5i, inserted ", domestic partner or civil union partner".

CASE NOTES:

Department of Health had jurisdictional authority to sanction violators of rule governing fees that health care providers could charge for copying medical records, but Department did not have exclusive jurisdiction to adjudicate such issues, and overcharged patients had a private cause of action against the violators. *Boldt v. Correspondence Management, Inc.*, 320 N.J.Super. 74, 726 A.2d 975 (N.J.Super.A.D. 1999).