

PRACTICE POLICIES, STATEMENTS & GUIDELINES

40-7 Guidelines Pertaining to the Retention and Release of Medical Records

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Purpose: To provide guidelines regarding patient record release and retention.

POLICY: The Colorado Medical Board (“Board”) has adopted the following guidelines pertaining to the retention and release of medical records.

I. Medical Record Retention and Protection

A. Written Plan to Ensure Security of Patient Medical Records:

1. Pursuant to 12-36-140 of the Colorado Revised Statutes (“C.R.S.”), each licensed physician and physician assistant (“licensee”) must develop a written plan to ensure the security of patient records.
2. A licensee shall attest at the time of license renewal that he or she has developed a plan in compliance with section 12-36-140, C.R.S.

B. Notice to Patients Regarding Written Plan .

3. A licensee shall provide written notice to each patient detailing the method by which the patient may access or obtain his or her medical records in the event the licensee dies, retires, or otherwise ceases to provide medical care to patients.

C. Retention Period

1. The Board recommends retaining all patient records for a minimum of seven years after the last date of treatment or seven years after the patient reaches age 18- whichever occurs later.
2. In case of litigation or Board investigation, records must be retained until resolution of the matter or seven years after last date of treatment or seven years after the patient reaches age 18- whichever occurs later.

D. Disability, Death or Discontinuation of Practice

1. At the time of discontinuation of practice, patients should be notified and instructed to submit a written authorization/release if

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they wish their records transferred to another provider. Records should be retained after discontinuation of practice using the guidelines above.

2. In the event of disability or death, it is the Board's expectation that associations, specialty societies, malpractice carriers, and Colorado practitioners assist in the distribution of medical records in accordance with the disabled/deceased providers' written plan to ensure security of patient records as defined in section I,A of this policy. Under no circumstances will the Board take possession of the records or assume responsibility for record security or distribution.

II. Medical Record Release

A. Absent exceptions as set forth in section 25-1-802 of the Colorado Revised Statutes, ("C.R.S."), patient medical records shall be available to the patient upon the patient's or authorized patient representative's submission of a valid authorization and upon reasonable notice.

1. Form of Request : A valid authorization for release of records must:
 - be made in writing;
 - clearly identify the patient; and,
 - be signed and dated by the patient or authorized patient representative
2. Reasonable Notice: Except where medical urgency otherwise requires a more prompt response, 30 days is reasonable notice for a medical records request.
3. Medical Record.
 - a. Items such as x-rays, fetal monitor strips and electrocardiograms, which may not at the time of the request be physically present in the medical record, are nonetheless considered to be part of the record.
 - i. If a patient's medical record contains imaging the provider should provide copies of all images as part of the response to a request for patient medical records, unless the patient specifically consents to not receive a copy of the image.
 - ii. The provider may charge the requesting party the cost of copying these records in advance.
 - b. Unless a summary of the case has already been prepared and is part of the medical record (e.g. a hospital record at the time of discharge), a provider is not obligated to provide one.

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4. Fees.

- a. Providers may charge a reasonable fee for copying of records and may request payment in advance.
 - i. The Board considers the rules promulgated by the Colorado Department of Public Health and Environment (“CDPHE”) setting forth reasonable costs for copies of medical records in licensed facilities to be reasonable guidelines for physicians providing copies of medical records.
 - ii. It is customary when a patient is transferring care for the provider to provide copies of records to another provider’s office free of charge.
 - iii. In those instances where a patient cannot, or chooses not to, pay the fee for copying of medical records the provider must, at a minimum, make the records available to the patient for inspection or otherwise provide access to the records.