

Colorado Medical Board Policy

POLICY NUMBER: 40-07
Title: Guidelines Pertaining to the Release and Retention of Medical Records
Date Issued: February 10, 2000
Date(s) Revised: August 9, 2001 (paragraph 6 revised); 11/08/01 (paragraph 10 added); 5/15/03 (paragraph 10 revised); 1/13/05 (entire policy revised); November 18, 2010
Reference:
Purpose: To provide guidelines to physicians and medical offices with respect to the Colorado Medical Board's expectations regarding patient record release and retention.

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

Medical Records Release

1. Colorado statute (25-1-802 C.R.S.) makes clear that records shall be available to the patient upon submission of a written authorization/request. There are no exceptions for circumstances such as the patient's failure to pay an outstanding bill for clinical services, failure to follow treatment instructions, or failure to return for follow-up care.
2. The statute does make an exception for psychiatric or psychological illnesses. (See §25-1-802 C.R.S.) Therefore, not all provisions of this policy apply to requests for copies of medical records related to psychiatric or psychological illnesses.
3. Disclosure of information concerning drug or alcohol problems may be restricted by the Federal confidentiality statute (42 C.F.R. Part 2) in some instances. The statute defines specific consent requirements such as purpose of disclosure, limitation of information released, right to revocation, expiration date of release, and signature of patient.
4. A valid request for release of records must be in writing. It should clearly identify the patient and be signed and dated by the patient or the patient's authorized representative.
5. The Board has concluded that except where medical urgency otherwise requires a more prompt response, thirty days is "reasonable notice" when records have been requested.
6. Physicians may charge a reasonable fee for copying of records and may ask for payment in advance. The Board notes that the Colorado Department of Public Health and Environment (CDPHE) has published rules setting forth reasonable costs for copies of medical records in licensed facilities. The Board considers these rules to be reasonable guidelines for physicians providing copies of medical records. It is customary when a patient is transferring care for physicians to provide copies of records to another physician's office free of charge.
7. Items such as x-rays, fetal monitor strips and electrocardiograms, which may not at the time of the request be physically in the medical record, are nonetheless considered part of the medical record. If these are specifically requested, then they must be copied and provided to the patient. The physician may charge the requesting party the cost of copying these records in advance.

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8. In those instances where a patient cannot, or chooses not to, pay the fee for copying of medical records identified in paragraphs 6 and 7 above, the physician at a minimum must make the records available to the patient for inspection or otherwise provide access to the records.
9. Unless a summary of the case has already been prepared and is part of the medical record (e.g. a hospital summary at the time of discharge), a physician is not obligated to provide one.
10. This policy does not supercede state and federal law. A physician must provide patient records in compliance with state and federal law.
11. The Board advises physicians to consult with their medical liability insurance carrier regarding any guidelines it may have for record release.

Retention and Protection of Medical Records

1. Pursuant to section 12-36-140, C.R.S, each licensed physician and physician assistant shall develop a written plan to ensure the security of patient medical records. The plan shall address at least the following:
 - a. The storage and proper disposal, if appropriate, of patient medical records;
 - b. The disposition of patient medical records in the event the licensee dies, retires or otherwise ceases to practice or provide medical care to patients; and
 - c. The method by which patients may access or obtain their medical records promptly if any of the events described in paragraph b of this subsection occurs.
2. A licensee shall inform each patient, in writing, of the method by which the patient may access or obtain his or her medical records if an event described in paragraph b of subsection 1 of this section occurs. If a medical practice is composed of multiple licensees, one notification may be provided to patients on behalf of all licensees within the medical practice.
3. 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.
4. The Board recognizes that it is impractical in most cases to maintain records indefinitely. Consequently, the Board has surveyed the rules and guidelines of other state medical boards and insurance liability carriers to develop the following guidelines for records retention.
5. The Board recommends retaining all patient records for a minimum of 7 years after the last date of treatment, or 7 years after the patient reaches age 18 - whichever occurs later.
6. At the time of discontinuation of practice, patients should be notified and instructed to submit a written authorization/release if they wish their records transferred to another physician. Records should be retained after discontinuation of practice using the guidelines above.
 - a. The Board recommends sending letters to patients seen in the last 3 years notifying them of discontinuance of practice;
 - b. The physician may want to place a notice in the newspaper announcing discontinuance of practice;
 - c. If all records are being transferred to another physician, patients should be notified as above.
7. In the event of a physician's death, the estate should retain the records utilizing the guidelines above.
8. In case of litigation or Board investigation, records must be retained until resolution of the matter.
9. When records are destroyed, it should be done in a manner that maintains patient confidentiality.
10. The Board advises physicians to consult with their medical liability insurance carrier regarding any guidelines it may have for record retention.