

Summary Of Rights In Pennsylvania

The right to see and get a copy of your medical record.

Your provider must make reasonable accommodations for you to view your medical records, or he must provide you with copies of your medical records within 30 days of receipt of your written request. Providers may charge reasonable copying fees, set by the Department of Health, and may also charge for shipping and postage.

The right to amend your medical record by having information added to it.

You can request to have information added to your medical record in order to make it more complete or more accurate. Your provider must consider your request and respond to it within 30 days of receipt of your written request.

The right to request a report about the entities with whom your provider has shared your medical information.

The right to request that your medical record NOT be shared with certain entities.

The right to file a complaint.

You have the right to file a complaint if you think that your provider has denied access to your medical record, or denied you the opportunity to amend your medical record. You can file a complaint with the Office of Civil Rights, U.S. Department of Health and Human Services, or with the Pennsylvania Department of State.

Exemptions

Certain providers may be exempt from the HIPAA regulations. Providers who do not use computers to send health information or to file claims may be exempt from the federal HIPAA regulations.

Psychotherapy notes can be kept confidential, and you may not have the right to see or amend these notes.

Resources

Office for Civil Rights

U.S. Department of Health and Human Services
1-800-368-1019
<http://www.hhs.gov/ocr/office/file/index.htm>

Pennsylvania Department of State [for complaints regarding individual providers]

Complaints Office
2601 North Third St.
P.O. Box 2649
Harrisburg, PA 17105-2649
Toll-free Complaint Hotline (PA only): 1-800-822-2113
Outside PA: 1-717-783-4849
<http://www.dos.state.pa.us/bpoa/cwp/view.asp?a=1104&Q=432617&bpoaNav=|>

Pennsylvania Department of Health [for complaints regarding facilities]

Health and Welfare Building
7th & Forster Streets
Harrisburg, PA 17120
877-PA-HEALTH
<http://www.dsf.health.state.pa.us>

¹ Office of Civil Rights, U.S. Department of Health and Human Services, Health Information Privacy. Accessed 2009 Jul 30. Available online at <http://www.hhs.gov/ocr/privacy/index.html>.

² Pennsylvania Code, Chapter 563, Medical Records. Accessed on 2009 Jul 30. Available online at http://www.pacode.com/secure/data/028/chapter563/028_0563.pdf.

³ Pennsylvania Consolidated Statutes. Title 42, Judiciary and judicial procedure Part IV. Actions, proceedings and other matters generally. Chapter 61. Rules of evidence. Subchapter E. Medical records.

⁴ 28 Pa Code § 115.28, Pennsylvania Code, Chapter 15 Medical Record Services. Accessed 18 Oct 2009. Available online at <http://www.pacode.com/secure/data/028/chapter115/chap115toc.html>.

⁵ Pennsylvania Department of Health. Fees for medical records. Accessed 2009 Jul 30. Available online at <http://www.dsf.health.state.pa.us/health/cwp/view.asp?a=191&Q=246977>.

⁶ Code of Federal Regulations, 45 CFR §164.524(a)(1).

⁷ Joy Pritts, J.D. Your medical record rights in Pennsylvania (2006). Health Policy Institute, Georgetown University.

**The information in this consumer guide is for informational purposes only, and should not be used as a substitute for legal or professional advice.*

What You Need to Know About Your Medical Records in Pennsylvania

General Information

Your medical records contain important information about you, your health history and your medical treatments. You may have medical records located in medical offices, laboratories, outpatient clinics and hospitals. To whom do these medical records belong? How can you obtain copies of your medical records? Do you have a right to amend information in your medical record?

A federal law called the **Health Insurance Portability and Accountability Act (HIPAA)** gives you the right to receive and amend your medical record by adding information to it. **Pennsylvania law^{2,3,4}** also gives you rights related to your medical record, including specific rights to confidentiality and access.

Adapted from "Your Medical Record Rights in Pennsylvania" (2006). Health Policy Institute, Georgetown University. Available to the public at <http://medicalrecordrights.georgetown.edu/records.html>.

Who Has Rights To My Medical Records?

Under Pennsylvania law, your medical provider is the legal custodian of your medical record, but you have the right to see, to obtain copies of, and to direct transfer of your medical record to another health care provider. Your provider can delay, but not prevent (except under certain restrictive circumstances) your review or transfer of your record. If you have a personal representative – someone who makes health care decisions on your behalf – that person typically has the right to obtain or change your records for you. If you are the parent of a minor (a child less than 18 years old), you typically have the right to obtain a copy of your child’s medical records, and to request corrections on behalf of your minor child.

If you are certified as the administrator or executor of a person’s estate who has died, you have the right to that person’s medical records from both a hospital and from a doctor. If you are the surviving spouse or the child of the person who died when there is no surviving spouse, you have the legal right to obtain hospital records.

How Long Do Doctors and Hospitals Keep My Records

In Pennsylvania, doctors must keep medical records for seven years after the last treatment date. In the case of minor children, medical records must be kept for one year after the age of majority or for seven years, whichever is longer. The age of majority is considered 18 years of age; 21 years of age if disabled or earlier if emancipated (free from parental guidance). Hospitals must keep medical records for seven years after the

date of discharge, and for minors, until the age of majority plus seven years. You have a right to see, get a copy of and to change your medical record for as long as the provider has the record.

How Do I Get a Copy of My Medical Records?

You should ask your healthcare provider about their specific procedures for getting copies of your medical records. Most providers have a form for you to fill out, and they can ask you to request your medical records in writing. Your most current healthcare provider should have a complete copy of your medical record. However, if you have multiple providers, or if you have seen multiple providers one after the other, you may want to request copies of your medical records from each provider, to ensure completeness of your medical record.

Once you make a written request for your medical records, your healthcare provider must approve the request within 30 days of receipt. If your medical records are kept offsite, the provider has up to 60 days. The 30- or 60-day period begins the day your healthcare provider receives your written request. If you have requested permission to see your medical record, your healthcare provider must make arrangements for you to come in and view the record. If your healthcare provider has a problem for some reason getting the record for you in that time frame, there can be a 30-day extension. The provider must provide you with a written explanation of the problem, and tell you the date they will respond. In most cases, it should not take more than 90 days for you to get a copy of your medical records.¹

...you have the right to see, to obtain copies of, and to direct transfer of your medical record to another health care provider.

Can My Provider Refuse to Release My Medical Records?

Under certain limited circumstances, your provider can deny your request to see or obtain copies of your medical record. For instance, if your provider believed that seeing your medical record would endanger you or someone else, the provider could deny your request. Your provider may not deny your request for medical records because you have an unpaid medical bill. If your provider denies your request to see your medical records, you can request the decision be reviewed by another provider. The provider must choose another healthcare provider to review their decision. Your provider must notify you in writing of the decision of the reviewer.

Can My Provider Charge Me a Fee for My Medical Records?

Your provider cannot charge you for transferring your medical record to another provider, but he/she is allowed to charge a reasonable fee for copying medical records for you. In Pennsylvania, the fees are set by the Pennsylvania Department of Health⁵ every year. The fees are determined by the number of pages that are copied. Providers may also charge actual costs related to postage and shipping. Pennsylvania law allows providers to charge an additional fee for looking for and getting back the record. However, this fee is not allowed under HIPAA, so if your provider is covered under federal HIPAA regulations, you should not have to pay the fee. There is a flat fee (plus shipping and postage) for records required to support a claim for Social Security benefits, which is adjusted every year.

...if your provider is covered under federal HIPAA¹ regulations, you should not have to pay the fee.

How Do I Amend My Medical Records?

If you believe that your medical record contains inaccurate information, you have the right to add information to your medical record. You should check with your provider about their procedures for amending medical records. Providers may require that you ask for a change to your record in writing, and they may require you to give your Social Security number in order to find your medical record. Amending medical records means adding information to the record for clarification; you are not allowed to have information removed from the record, even if you disagree with a provider’s diagnosis. Your provider has 60 days from the date the request is received to either accept or deny your request in writing. Providers can get one 30-day extension, and they must notify you in writing that they request a delay and when they expect to comply with the request for amendment.

A provider can deny your request to amend your medical record if they feel that the medical record is accurate and complete, or if they did not create the information that you want amended. There is no right to have the provider’s decision reviewed. However, you have the right to provide a written statement if you disagree with the provider’s decision and the provider must make your statement a part of your medical record. In the future, when medical records are requested by other providers, your provider must include his denial of your request to amend the medical record as well as a copy of your statement of disagreement.

It should not take more than 90 days to amend your medical records. If the request is accepted, you may supply your provider with a list of other healthcare providers that should know about the amended record, and your provider must give the amended information to the people and organizations identified by you.