

Do I have the right to see my medical records?

New York State Law gives patients and other qualified individuals access to medical records. 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. Here is the information you need to obtain your medical records.

Q. Are doctors and hospitals required to keep medical records?

A. Yes, but not forever. Physicians and hospitals are required by state law to maintain patient records for at least six years from the date of the patient's last visit. A doctor must keep obstetrical records and records of children for at least six years or until the child reaches age 19, whichever is later. Hospitals must keep obstetrical records and records of children for at least six years or until the child is age 21, whichever is later. So, for example, if you had surgery at age 11 and want your records at age 18, the law requires that the physician and the hospital have them. But, if you are 35 and are trying to track down your childhood immunization records, the law does not require either a physician or a hospital to have them.

Q. Who can request medical records?

A. 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.

Q. How do I request the records?

A. 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.

Q. How long will it take to see my records?

A. 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.

Q. 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. Physicians may charge the actual reproduction costs for radiographic materials, such as X-rays or MRI films. A provider may not impose a charge for original mammogram films, but may charge postage. However, an individual cannot be denied access to information solely because he or she is unable to pay.

Q. Can a physician or institution charge a search and retrieval fee for getting my records?

A. No.

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

A. No.

Q. What information can I see?

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

Q. Are there any parts of my medical record to which my physician can deny me access

A. 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.

Q. What are personal notes and observations

A. The law defines personal notes and observations as "a practitioner's speculations, impressions (other than a tentative or actual diagnosis) and reminders..."

Q. Can I appeal a denial

A. 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.

Q. How does the appeals process work

A. A written appeal must be filed with the New York State Health Department. A provider has 10 days to provide copies of the records and an explanation for the denial to the chair of the state Medical Records Access Review Committee. Within 90 days, the committee reviews the records, provides the physician and the individual requesting the records an opportunity to be heard, and issues a written decision. If the committee finds that the records should be made available, the practitioner must comply. If the appeal is denied, the individual can seek disclosure through the courts. However, if the committee decides that parts of the record are personal notes, the decision is final and cannot be reviewed in court.

Q. What happens if a physician still refuses to provide my records, even after I win an appeal

A. Under state law, failure to provide medical records requested by a qualified individual is misconduct. A physician who fails to comply can be subject to disciplinary action by the New York State Health Department.

Q. How do I get more information

A. If you would like information regarding records held by physicians, health care facilities and other health professionals:

Write to

*Access to Patient Information Coordinator
Office of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299*

Call

For additional information or assistance, call

- 1-800-663-6114

If you would like information regarding records held by hospitals, direct your initial inquiry to the hospital. For additional information or assistance, call:

- 1-800-804-5447

If you would like information regarding records held by facilities licensed or operated by the New York State Office of Mental Health, direct your initial written request to the director of the individual facility. For additional information or assistance, call

- 1-800-597-8481
- 1-800-210-6456 (Spanish)
- 1-800-597-9810 (TTD)

If you have questions regarding substance abuse records, direct your initial inquiry to the individual facility. For additional information or assistance, contact

- *Public Information Office
NYS Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, NY 12203-3526*
- 1-518-473-3460

Questions or comments: opmc@health.state.ny.us

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