

Denial of Access to Patient Information and Appeal Form

SECTION I – Denial of Access to Patient Information: To be completed by the provider.

INSTRUCTIONS: Section I of this form is to be completed by the provider if access to patient information is denied. Print or type all information in Section I and give the entire form to the person who has been denied access.

Patient's Name _____

Description of Records Requested _____

For the Period From _____ To _____

Requested By (Name) _____ On (Date) _____

The request is denied, in total or in part because (check applicable box below):

- Release of the information can reasonably be expected to cause substantial and identifiable harm to the patient or others which outweighs the qualified person's right to access.
- The records are substance abuse program and/or clinical records of facilities licensed or operated by the Office of Mental Health and may be disclosable under the Mental Hygiene Law.
- Release of the information would have detrimental effects on the provider's professional relationship with a minor, or the minor's relationship with his or her parents or guardian.
- The information was obtained from other examining or treating practitioners and made be requested from other practitioner's directly.
- The requested records are personal notes and observations.
- Other provisions of law prevent the release.
- The information was disclosed under the condition it would be kept confidential, and it has been kept confidential since then.
- The person making the request is not qualified by the law to have access.

Name of Provider (Print or type) _____

Signature _____ Date _____

Street Address _____

City _____ State _____ Zip Code _____

Telephone Number (_____) _____ - _____

SECTION II – Request for Review of Denial of Access to Patient Information: To be completed by the patient or other qualified person.

- INSTRUCTIONS:
1. Read the information below before completing this section.
 2. If you want to appeal the denial of access to patient information, complete this section and send the entire form to:
API Coordinator
Office of Professional Medical Conduct
150 Broadway, Suite 355
Albany, New York 12204-2719
 3. 1-800-663-6114 – For physicians and other health professionals.

I request a review by a Medical Record Access Review Committee of the denial of access to patient information described in Section I.

I am qualified to make this request because I am (check one):

- The patient whose records were requested.
- The parent or legal guardian of the patient, and I consented to the care and treatment or the care was provided in an emergency without consent.
- An otherwise qualified person (specify).

Name of Qualified Person (Print or type) _____

Signature _____ Date _____

Street Address _____

City _____ State _____ Zip Code _____

Telephone Number: (_____) _____ - _____

You and Your Health Records

You now have the right to see your health records. New York State Law requires all health care practitioners and facilities to allow patients to have access to their health records. However, some restrictions may apply.

This form describes your rights, what information is available and how to appeal if access to health records is denied.

Who may request information?

Patients may. Also, the parents or guardians of a child may request access if they have consented to the health care or the care was provided in an emergency without consent. You will be required to put your request in writing. The health care provider then has 10 days after receiving the request to provide an opportunity for you to inspect your records. You can also request copies of the records. The provider may make reasonable charges to you to cover the costs of inspections and copies. HOWEVER, YOU CANNOT BE DENIED ACCESS TO THE RECORDS SIMPLY BECAUSE YOU CANNOT PAY THE COSTS OF COPYING OR INSPECTION.

What information is available?

All information concerning or relating to your examination or treatment is available for your review EXCEPT:

- personal notes and observation maintained by the practitioner;
- information that was disclosed to the practitioner under the condition that it would be kept confidential and it has been kept confidential since then;
- information about the treatment of a minor that, in the opinion of the practitioner, should not be disclosed to the parents or guardians (a patient over the age of 12 may be told that his/her parents or guardians have requested the patient's records, and if the child objects, the provider may deny the request);
- information that the practitioner determines may reasonably be expected to substantially harm the patient or others;
- substance abuse program records and clinical records of facilities licensed or operated by the Office Mental Health (These records may be disclosed pursuant to a separate process in Section 33.16 of the Mental Hygiene Law);
- information obtained from other examining or treating practitioners which may be requested from the other practitioners directly;
- when other provisions in law prevent the release. For example, Public Health Law, Section 17 prevents release to parents or guardians of some types of children's medical records.

The provider has the right to review the requested records before granting you access. The provider may decide to deny access to all or part of the record if one of the exceptions applies. In that case, the provider may give you a prepared summary of the information.

Can denial of access be appealed?

Yes. If access is denied, you may appeal (without charge). The provider is required to give you this form explaining the appeals process. If you wish to appeal, complete the attached form and send it to the "Access to Patient Information Coordinator" in the New York State Department of Health at the address below. A Medical Record Access Review Committee will then review your request. The coordinator will notify the provider and the review committee of your appeal. The provider then has 10 days to send the information to the chairperson of the committee, along with a statement explaining why access was denied. The committee will review the records, provide you and the provider a chance to be heard, and issue a written determination. If the review committee decides that you should have access, the practitioner must comply.

If the committee agrees that access may reasonably be denied, you still have the right to seek disclosure through a court proceeding. However, if the committee decides that parts of the record are personal notes, the decision is final and cannot be reviewed in court.

Other rights and limitations may be involved. If you need more information, write the "Access to Patient Information Coordinator" in the Office of Professional Medical Conduct, 150 Broadway, Suite 355, Albany, New York 12204-2719, or call (800) 663-6114.