

## The Importance of Complying with Medical Record Requests

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The Ethics Committee recently received multiple complaints from patients stating that their dental providers are not providing them with their medical records when requested. After following up with the providers, the following reasons for why records were withheld were found: 1) a patient did not pay for copies of the medical record, (it is costly to duplicate dental models); 2) one provider gave the original records to an attorney for a malpractice suit and the attorney's office could not re-locate them; and 3) another already gave copies, but the patient lost them, so the office didn't feel obligated to provide another copy.

New York State dentistry practice guidelines state, "Health professionals are required to maintain records for each patient that accurately reflects the evaluation and treatment of the patient according to section 29.2(a)(3) of the Rules of the Board of Regents. All patient records must be retained for at least six years, with the exception of records for minor patients, which must be maintained for at least six years and for one year after the minor patient reaches the age of 21. Under Section 18 of the Public Health Law, patients have the right of access to their records under most circumstances. If you deny access to records to a patient, you have an obligation to inform the patient of his/her right to appeal to the Office of Record Access of the Department of Health."

To avoid problems when patients request their records, all entries should contain accurate and complete information for all treatments and communications, including those done in-person and by telephone, letter, or electronic means.

Ultimately, patients have the right to know what is kept in their medical records. Since the dentist owns the physical medical record of his or her patients, it is therefore the property of the dentist. The information in the record, however, is the property of the patient. There is a distinction between the two. While patients do not have the right to possess the original record, they do have the right to see and to request and obtain a copy of it. Copies of records should be sent without being altered. If a correction needs to be made to the document, all errors should be rectified with a single-line strikeout and the date the correction was made. There should be no attempt to hide information. In fact, changing a patient's record with the intent to deceive is highly unethical and unprofessional conduct.

Since patients have the right to their own medical information, dentists must release information to patients or to a third party at the request of their patient within a reasonable timeframe. The dentist is obligated to provide all records if requested, including radiographs and models. The state health department considers 10 to 14 days to be an appropriate amount of time for a practitioner to respond to such a request. In most cases, a reasonable fee may be charged for copying records. The law allows charging no more than 75 cents per page plus postage for paper copies of medical records. Dentists may also charge for actual reproduction costs, specifically for radiographs and models.

With regards to potential costs, it is vastly important to note that a patient cannot be denied access to records solely because he or she is unable to pay for copies of records, nor can records be withheld from patients due to the nonpayment of dental bills. If a provider refuses to release a patient's records until an outstanding invoice is paid, such action can have negative consequences for the provider.

The New York State Board for Dentistry has determined that refusal to provide a patient with medical records, despite outstanding bills, is grounds for disciplinary action by the Office of Professional Discipline. Note that there is no statute of limitation for charges of professional misconduct. Moreover, if a patient believes that you have violated his or her health information privacy right by not giving medical record access, the patient has the right to file a HIPAA Privacy Rule Complaint with the U.S. Department of Health and Human Services (HHS) Office for Civil Rights.

**In summary, keep accurate records, comply with record requests, and release copies of the records rather than the originals. If there is ever a malpractice action or complaint against you, having well-kept records are crucial and can be your best defense.**

There are no apparent benefits that stem from denying patients access to their records or denying them copies. Complying with the proper way to handle medical records will keep you far from engaging too closely with our Ethics Committee and from run-ins with the Office of Professional Discipline. Staying up to date on the best and most ethical practices will help you succeed and even thrive as a healthcare provider. Your patients will thank you and you'll also thank yourself.