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Title 68 Health, Safety and Environmental Protection
Health
Chapter 11 Health Facilities and Resources
Part 3 Medical Records Act of 1974

Tenn. Code Ann. § 68-11-304 (2016)

68-11-304. Records property of hospitals -- Access -- Not public records -- Funding for medical record requests -- Access during time of public health threat.

(a) (1) Hospital records are and shall remain the property of the various hospitals, subject, however, to court order to produce the records. Unless restricted by state or federal law or regulation, a hospital shall furnish to a patient or a patient's authorized representative such part or parts of the patient's hospital records without unreasonable delay upon request in writing by the patient or the representative.

(2) (A) (i) The party requesting the patient's records shall be responsible for the reasonable costs of copying and mailing the patient's records.

(ii) The charges to a patient or a lawyer authorized by the patient to review the patient's records shall not exceed the reasonable costs for copying and the actual costs of mailing the records. The reasonable costs shall not include any costs involved with the maintenance and storage of the records, nor shall it include any costs that may be from or associated with providing the records to any party other than a patient or a lawyer authorized by the patient to review the patient's records.

(iii) (a) The following charges shall be presumed to be reasonable:

(1) A fee of eighteen dollars (\$18.00), which shall include the first five (5) pages of the medical record and a per page charge of eighty-five cents (85cent(s)) a page for the sixth page, up to and including the fiftieth page;

(2) Sixty cents (60cent(s)) a page for the fifty-first page up to the two hundred fiftieth page and thirty-five cents (35cent(s)) a page for all pages thereafter;

(3) A fee for certifying medical records, not to exceed twenty dollars (\$20.00) for each record certified.

(b) The costs charged for reproducing records of patients involved in a workers' compensation claim shall be as defined in § 50-6-204.

(iv) In workers' compensation cases, a request for medical records shall include a medical or anatomical impairment rating, if such record is available. Requests for such records shall be subject to the limits on charges established by this section. Special additional or separate charges for including impairment ratings are not permitted.

(B) (i) Notwithstanding subdivision (a)(2)(A), a hospital may not impose a charge on an indigent person for furnishing the person, or the person's attorney or authorized representative, with a health record or part thereof concerning the patient for the purpose of supporting a claim or appeal under any provision of the Social Security Act, compiled in 42 U.S.C. § 301 et seq., if a request for the record or part thereof is accompanied by a copy of a recent application seeking benefits under the Social Security Act or a copy of a recent decision denying benefits. Patients being represented by organizations whose purpose is to provide legal assistance to the indigent, or represented by attorneys with an affiliated pro bono program, shall be presumed indigent. A hospital may demand reasonable proof of indigency from any other patient not so represented, or the patient's attorney or authorized representative, by submission of the following form:

[AFFIDAVIT OF INDIGENCY](#)

(ii) If a copy of the patient's medical records has been previously provided without charge to an indigent patient or the patient's attorney or authorized representative, the hospital is not required to provide an additional copy of the same records without charge. A hospital shall furnish a health record requested pursuant to this section within thirty (30) days of the request.

(3) Nothing in this section shall be construed as superseding any law that establishes specific costs for the reproduction, copying or mailing of records.

(4) Payment of costs may be required by the hospital prior to the records being furnished.

(5) Nothing in this section shall be construed as prohibiting a hospital from charging the actual costs of postage, in addition to charges otherwise permitted by this section.

(b) Hospital records shall be made available when requested for inspection by a duly authorized representative of the board or department.

(c) Except as otherwise provided by law, hospital records shall not constitute public records, and nothing contained in this part shall be deemed to impair any privilege of confidentiality conferred by law on patients, their personal representatives or heirs.

(d) Prior to January 1, 2000, the department of human services shall request from the

social security administration increased funding relative to medical records requested by the department to determine eligibility of persons for social security disability benefits, so that the reimbursement rates paid for such records shall be consistent with the rates permitted under subdivision (a)(2)(A)(iii).

(e) Providers, as defined in § 71-5-2503, shall make available for inspection and copying, to the office of inspector general and the medicaid fraud control unit, upon request, no later than by the close of business on the next business day, a complete set of all medical records requested in connection with an investigation being pursued by the agency, or shall provide a compelling reason why the requested records cannot be produced; provided, that no such records shall be removed from the grounds of the provider's office without the provider's consent, unless the office of inspector general or the medicaid fraud control unit reasonably believes that requested documents are about to be altered or destroyed.

(f) On request of a provider, a duly authorized agent of the requesting agency shall sign a document acknowledging receipt of records produced pursuant to this section. On request of a duly authorized agent of the requesting agency, a duly authorized agent of the provider shall sign a document acknowledging the return of specific records to the provider.

(g) No person or entity shall be subject to any civil or criminal liability for releasing patient information in response to a request from the office of inspector general or the medicaid fraud control unit.

(h) Pursuant to § 68-1-104, the commissioner or the commissioner's designee, upon request, shall obtain access to records maintained by any facility, entity, or individual licensed under title 63. Access shall be given in the most efficient and expedient means possible, including remote electronic access, to facilitate investigations and inquiries while responding to an immediate threat to the public health, welfare, or general good. Electronic access shall be limited to the minimum necessary for the duration of the outbreak, event, or time in which the public health is under immediate threat as determined by the commissioner.

HISTORY: Acts 1974, ch. 588, § 4; T.C.A., § 53-1322; Acts 1990, ch. 1067, § 2; 1992, ch. 706, § 1; 1997, ch. 425, § 3; 1998, ch. 957, § 1; 1999, ch. 483, §§ 1-3; 2002, ch. 523, § 1; 2004, ch. 449, § 1; 2005, ch. 474, § 13; 2006, ch. 691, § 1; 2007, ch. 424, § 2; 2015, ch. 154, § 2.