



CNA HealthPro

FAQs – Request for Records

Q. I just received a request for a patient's dental records. How should I respond?

A. In addition to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), most states have laws addressing patient record confidentiality. Such laws address some of the basic requirements that must be fulfilled when releasing such records. Many state laws have certain features and legal concepts in common, which are addressed in the patient record disclosure guidelines below. However, state laws do vary, and an inappropriate response to a records request can exacerbate a potential claim situation. Whenever you are unsure of how to respond to a request, consult with an attorney knowledgeable about the laws of your state.

In most states, the rule governing record ownership is that the physical records (e.g., documents, x-rays, models) are owned by the dentist, but the information contained in the records belongs to the patient. Dentists are required to copy the requested records in a reasonable time and manner. Patients are always entitled to the information in their records even if they have an unpaid balance. Refusing to transfer records because of unpaid dental bills constitutes a violation of the law in most states.

The right to information does not entitle patients to the original records. In fact, many state dental practice acts mandate that you retain the original records. Patients generally have a right only to copies of the records. Original patient records – especially x-rays – should be retained for an extended period of time, as they are a vital part of your defense should a claim ever arise. You may charge a reasonable copying fee as a condition of providing records.

When receiving a request for records, ensure you have written authorization for the release of information. The patient or the patient's legal representative (parent, guardian, etc.) should provide written authorization for the release of specific records or information. Keep the request document in the patient's chart in case questions arise later regarding the release of information. All dental personnel must understand that, absent a court order, patient information must not be released to anyone without the patient's written consent. This prohibition includes releasing records to spouses, parents of adult children, children of aged parents, siblings, work associates, insurance companies, and governmental agencies, which may include state dental board investigators.

If you receive a request from a third party, ask for written authorization from the patient naming them as a directed recipient. Be certain to keep the request documents on file. Ideally, no documents should be released without some form of written authorization from the patient. However, if you choose to release copied patient records based on a telephone request *directly from the patient*, document the request in the patient's record before photocopying.

If the request comes in the form of a court subpoena, consult an attorney to make sure the subpoena has been properly issued. If a response is necessary, the attorney can also help you tailor the response to the specifics of the subpoena.

Staff members that handle record requests should check with the dentist before mailing in order to verify that the correct components are being sent. The date of the patient's request and the date the copy was sent (or picked up) should be recorded in the patient chart.

Requests for patient records are a common and necessary part of professional practice. As long as you obtain written consent to release the information and document this consent in the chart, it should be a routine event.

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