

TEXAS MEDICAL BOARD RULES

Chapter 165, Medical Records

the information as provided by the Medical Practice Act, §159.005, except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient. The physician may delete confidential information about another patient or family member of the patient who has not consented to the release. If by the nature of the physician's practice, the physician transmits health information in electronic form, the physician may be subject to the Health Insurance Portability and Accountability Act (HIPAA) 45 C.F.R. Parts 160-164. Unless otherwise provided under HIPAA, physicians subject to HIPAA must permit the patient or an authorized representative access to inspect medical and/or billing records and may not provide summaries in lieu of actual copies unless the patient authorizes the summary and related charges.

(b) **Deadline for Release of Records.** The requested copies of medical and/or billing records or a summary or narrative of the records shall be furnished by the physician within 15 business days after the date of receipt of the request and reasonable fees for furnishing the information.

(c) **Denial of Requests for Records.** If the physician denies the request for copies of medical and/or billing records or a summary or narrative of the records, either in whole or in part, the physician shall furnish the patient a written statement, signed and dated, within 15 business days of receipt of the request stating the reason for the denial and how the patient can file a complaint with the federal Department of Health and Human Services (if the physician is subject to HIPAA) and the Texas State Board of Medical Examiners. A copy of the statement denying the request shall be placed in the patient's medical and/or billing records as appropriate.

(d) **Contents of Records.** For purposes of this section, "medical records" shall include those records as defined in §165.1(a) of this title (relating to Medical Records) and shall include copies of medical records of other health care practitioners contained in the records of the physician to whom a request for release of records has been made.

(e) **Allowable Charges.**

(1) The physician responding to a request for such information shall be entitled to receive a reasonable, cost-based fee for providing the requested information. A reasonable fee shall be a charge of no more than \$25 for the first twenty pages and \$.50 per page for every copy thereafter. If an affidavit is requested, certifying that the information is a true and correct copy of the records, a reasonable fee of up to \$15 may be charged for executing the affidavit. A physician may charge separate fees for medical and billing records requested. The fee may not include costs associated with searching for and retrieving the requested information.

(2) A reasonable fee, shall include only the cost of:

(A) copying, including the labor and cost of supplies for copying;

(B) postage, when the individual has requested the copy or summary be mailed; and

(C) preparing a summary of the records when appropriate.

(f) **Emergency Requests.** The physician providing copies of requested medical and/or billing records or a summary or a narrative of such records shall be entitled to payment of a reasonable fee prior to release of the information unless the information is requested by a licensed Texas health care provider or a physician licensed by any state, territory, or insular possession of the United States or any State or province of Canada if requested for purposes of emergency or acute medical care.

(g) **Non-emergent Requests.** In the event the physician receives a proper request for copies of medical and/or billing records or a summary or narrative of the records for purposes other than for emergency or acute medical care, the physician may retain the requested information until payment is received. If payment is not routed with such a request, within ten calendar days from receiving a request for the release of such records, the physician shall notify the requesting party in writing of the need for payment and may withhold the information until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's medical and/or billing record as appropriate.

(h) **Improper Withholding for Past Due Accounts.** Medical and/or billing records requested pursuant to a proper request for release may not be withheld from the patient, the patient's authorized agent, or the patient's designated recipient for such records based on a past due account for medical care or treatment previously rendered to the patient.

(i) **Subpoena Not Required.** A subpoena shall not be required for the release of medical and/or billing records requested pursuant to a proper release for records under this section and the Medical Practice Act, §159.006, made by a patient or by the patient's guardian or other representative duly authorized to obtain such records.

(j) **Billing Record Requests.** In response to a proper request for release of medical records, a physician shall not be required to provide copies of billing records pertaining to medical treatment of a patient unless specifically requested pursuant to the request for release of medical records.

(k) **Prohibited Fees for Records Released Related to Disability Claims.** The allowable charges as set forth in this chapter shall be maximum amounts, and this

██████████, M.D.,
HOUSTON, TX, Lic. #██████████

On June 3, 2005, the Board and Dr. ██████████ entered into an Agreed Order assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. ██████████ failed to timely provide requested medical records.

RAPHAEL, PETER, M.D., PLANO, TX., Lic. #G8361

On June 8, 2005, the Board ordered that Dr. Raphael's Texas medical license be immediately suspended. The action was based on Dr. Raphael's failure to comply with all of the terms and conditions of an Order Dr. Raphael entered into with the Board on December 12, 2003.

Subsequently, and also on June 8, the District Court of the 353rd Judicial District in Travis County, Texas, entered an Order denying Dr. Raphael's application for a temporary restraining order against the enforcement of the Board's Order.

RASHID, KHUSRO, M.D., SAN ANTONIO, TX, Lic. #K4203

On February 4, 2005, the Board and Dr. Rashid entered into an Agreed Order suspending Dr. Rashid's license, but probating the suspension for five years. The action was based on allegations of disruptive behavior and failure to properly assess two patients before emergency room treatment.

ROBINSON, HERBERT JOEL, M.D., SAN ANTONIO, TX, Lic. #D5568

On June 3, 2005, the Board and Dr. Robinson entered into an Agreed Order assessing an administrative penalty of \$500. The action was based on allegations that Dr. Robinson failed to timely provide requested medical records.

ROBY, RUSSELL R., M.D., AUSTIN, TX, Lic. #E1255

On December 10, 2004, the Board and Dr. Roby entered into an Agreed Order publicly reprimanding Dr. Roby, requiring a practice monitor, and requiring Dr. Roby to present an informed consent for Board approval. The action was based on allegations that Dr. Roby treated a patient's bacterial infection with dilute tetanus toxoid injections without informed consent.

ROGLER-BROWN, TIMOTHY LEE, M.D., SAN BENITO, TX, Lic. #K6918

On June 3, 2005, the Board and Dr. Rogler-Brown entered into an Agreed Order assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Rogler-Brown used an advertising statement that was false, misleading or deceptive.

SACHDEV, ATUL KUMAR, M.D., HOUSTON, TX, Lic. #K1294

On April 8, 2005, the Board and Dr. Sachdev entered into an Agreed Order suspending Dr. Sachdev's license, staying the suspension and placing him on probation for two years; requiring him to complete a 10-hour course in recordkeeping and a 10-hour course in infectious diseases, both courses to be approved by the executive director in advance; requiring his practice to be monitored by another physician and assessing an administrative penalty of \$5,000. The action was based on allegations that Dr. Sachdev failed to elicit an adequate history and physical for a patient and that his medical records were incomplete.

SANDERS, PATRICIA FERN, M.D., LONGVIEW, TX, Lic. #H4674

On June 3, 2005, the Board and Dr. Sanders entered into an Agreed Order assessing an administrative penalty of \$1,500. The action is based on allegations that Dr. Sanders failed to timely provide requested medical records.

SARKAR, SONALI, M.D., HOUSTON, TX, Lic. #BP20019410

On June 3, 2005, the Board and Dr. Sarkar entered into an Agreed Order requiring that if Dr. Sarkar seeks a physician in training permit or a medical license, she must appear before the Licensure Committee of the Board and provide clear and convincing evidence that indicates to the satisfaction of the Board that she is physically, mentally, and otherwise competent to safely practice medicine. The action was based on allegations that Dr. Sarkar suffers from a mental illness.

SAUCEDA, FRANCISCO BASIL, M.D., SAN ANTONIO, TX, Lic. #H8375

On February 17, 2005, the Board entered an Order temporarily suspending Dr. Saucedo's license. The