TELEPHONE: (601) 987-3079

FAX: (601) 987-4159

# MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

TO: Mississippi Secretary of State

From: Mississippi State Board of Medical Licensure

Date: May 17, 2007

Subject: Notice of Proposed Rule Adoption - Final Rule

Mississippi Code §73-43-11 gives the Mississippi State Board of Medical Licensure the power to promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine.

This rule as adopted does not differ from the proposed rule.

The changes to Regulation XII, Release of Medical Records, reflect the Board's attempt to simplify current language.

Cypress Ridge Building • 1867 Crane Ridge Drive, Suite 200-B • Jackson, MS 39216
www.msbml.state.ms.us

# XII. RELEASE OF MEDICAL RECORDS

## A. DEFINITIONS

For the purpose of Article XII only, the following terms have the meanings indicated:

1. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the State of Mississippi.

2. "Medical Records" means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, X-rays, reports of examination and/or evaluation and any hospital admission/discharge records which the physician may have.

3. "Patient" means a natural person who receives or should have received health care from a licensed physician, under a contract, express or implied, whether or not the physician is compensated for services rendered.

4. "Legal Representative" means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.

## B. MEDICAL RECORDS - PROPERTY OF PHYSICIAN/CLINIC

Medical records, as defined herein, are and shall remain the property of the physician or physicians, in whose clinic or facility said records are maintained, subject, however, to reasonable access to the information contained in said records as set forth herein below.

## C. TRANSFER OF PATIENT RECORDS TO ANOTHER PHYSICIAN

A physician who formerly treated a patient shall not refuse for any reason to make the information contained in his medical records of that patient available upon request by the patient, or legal representative of the patient, to another physician presently treating the patient. The physician has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the physician must tender a copy of said documents to the other physician within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the physician is entitled to reasonable compensation paid in advance for any copy expenses as provided at Paragraph F below.

D. RELEASE OF PATIENT RECORDS TO PATIENT

A physician shall, upon request of the patient, patient's legal representative, or other person holding a written release and authorization (hereinafter, "authorized requesting party"), provide a copy of a patient's medical record to the authorized requesting party; provided, however, where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the physician shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The physician has a right to request a written authorization prior to release of the records. Upon receipt of the written release and authorization, the physician must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the physician is entitled to reasonable compensation paid in advance for any copy expenses as provided at Paragraph F below.

E. NARRATIVE SUMMARY OF MEDICAL RECORD

In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the physician may provide the narrative summary. The physician may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

F. DUPLICATION AND ADMINISTRATIVE FEES

Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code Annotated, Section 11-1-52, as follows: Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to patients or their representatives for photocopying any patient's records: Twenty Dollars ($20.00) for pages one (1) through twenty (20); One Dollar ($1.00) per page for the next eighty (80) pages; Fifty Cents (50¢) per page for all pages thereafter. Ten percent (10%) of the total charge may be added for postage and handling. Fifteen Dollars ($15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located. In addition, the actual costs of reproducing x-rays or other special records may be included. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

A licensee shall only charge normal, reasonable and customary charges for a

deposition related to a patient that the physician is treating or has treated.

Any licensee shall charge no more than Twenty-five Dollars ($25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.

G. EXCLUSION

Federal or state agencies providing benefit programs are excluded from the above stated fees. Records that are requested by state or federal agencies for said benefit programs shall pay an acceptable rate as established by the requesting federal or state agency.

H. VIOLATION OF REGULATIONS

A refusal by a physician to release patient records as enumerated above shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code (1972) Annotated, Section 73-25-29(8)(d), as amended.

**Amended March 16, 1995. Amended July 18, 2002. Amended September 18, 2003. Amended September 16, 2004. Amended May 17, 2007.**