Part 2650 Chapter 2: Public Records

Rule 2.1 Authority and purpose. "It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records." Section 25-61-1, Miss. Code of 1972.

"[A]ll public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body." Section 25-61-5, Miss. Code of 1972.

The act defines "public record" to include "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body." Section 25-61-3(b).

The purpose of these rules is to establish the procedures the Board of Medical Licensure will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Board of Medical Licensure and establish processes for both requestors and the Board of Medical Licensure staff that are designed to best assist members of the public in obtaining such access.

The purpose of the act is to provide the public full access to public records concerning the conduct of government. These rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Board of Medical Licensure will be guided by the provisions of the act describing its purposes and interpretation.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.2 Public body description--Contact information--Public records officer.

(1) The Board of Medical Licensure is a regulatory agency that licenses and regulates the practice of medical, osteopathic and podiatric physicians, as well as physician assistants, radiologist assistants, acupuncturists and limited x-ray machine operators. The Board's central office is located at 1867 Crane Ridge Drive, Suite 200-B, Jackson, MS 39216.

(2) Any person wishing to request access to public records of the Board, or seeking assistance in making such a request should contact the public records officer of the Board:

Public Records Officer
Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200-B

Jackson, MS 39216
(601) 987-3079
(601) 987-4159 (facsimile)
mboard@msbml.ms.gov
Information is also available at the Board's web site at www.msbml.ms.gov.

(3) The public records officer will oversee compliance with the act and these rules, but another Board staff member may process the request. Therefore, these rules will refer to the public records officer or "designee." The public records officer or designee and the Board will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Board.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.3 Availability of public records.

(1) **Hours for inspection of records**. Public records are available for inspection and copying during normal business hours of the Board, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the Board. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the Board.

(2) **Organization of records**. The Board will maintain its records in a reasonably organized manner. The Board will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Board records from Board offices. A variety of records is available on the Board's web site at www.msbml.ms.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) **Making a request for public records**.

(a) Any person wishing to inspect or copy public records of the Board should make the request in writing on the Board's request form, or by letter, fax, or e-mail addressed to the public records officer and including the following information:

Name of requestor;
Address of requestor;
Other contact information, including telephone number and any e-mail address;
Identification of the public records adequate for the public records officer or designee to locate the records; and
The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Rule 1.9 of this policy, standard photocopies will be provided at fifteen (15) cents per page.

(c) A form is available for use by requestors at the office of the public records officer and on-line at www.msbml.ms.gov.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.4. Processing of public records requests – General.

(1) **Providing access.** The Board acknowledges that "providing access to public records is a duty" and that "any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record" in accordance with these policies. Sections 25-61-1 and 25-61-5. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request, stating the reason for the denial in writing.

(3) **Consequences of failure to respond.** If the Board does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the Board believes that a record is exempt from disclosure and should be withheld, the public records officer will deny the request in writing as set out in Rule 1.4 (2)(d) above, stating the specific exemption. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) **Inspection of records.**

(a) Consistent with other demands, the Board shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the public body to copy.

(b) The requestor must claim or review the assembled records within thirty days of the Board's notification to him or her that the records are available for inspection or copying. The public body will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Board may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(7) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Board has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Board has closed the request.

(10) **Later discovered documents.** If, after the Board has informed the requestor that it has provided all available records, the Board becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.5 Processing of public records requests – Electronic records.

(1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which

the public body keeps the record. Costs for providing electronic records are governed by Rule 1.9.

(3) **Customized access to data bases.** With the consent of the requestor, the Board may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The Board may charge the actual cost for such customized access.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.6 Exemptions. The Public Records Act, as well as other statues and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the Board for inspection and copying:

Academic records exempt from public access, see § 37-11-51.

Appraisal records exempt from access, see § 31-1-27.

Archaeological records exempt from public access, see § 39-7-41.

Attorney work product, examination, exemption, see § 25-1-102.

Birth Defects Registry, see § 41-21-205.

Bureau of vital statistics, access to records, see § 41-57-2.

Charitable organizations, registration information, exemption from public access, see § 79-11-527.

Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.

Confidentiality, ambulatory surgical facilities, see § 41-75-19.

Defendants likely to flee or physically harm themselves or others, see § 41- 32-7.

Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.

Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.

Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.

Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.

Judicial records, public access, exemption, see § 9-1-38.

Jury records exempt from public records provisions, see § 13-5-97.

Licensure application and examination records. exemption from Public Records Act, see § 73-52-1.

Medical examiner, records and reports, see § 41-61-63.

Personnel files exempt from examination, see § 25-1-100.

Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.

Workers' compensation, access to records, see § 71-3-66.

Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.7 Third Party Information. When any person files or submits documents with the Board which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with the Board which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the Board shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of 1972.

Any person filing documents with the Board shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The Board shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the Board bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.8 Costs of providing public records.

(1) **Costs for paper copies.** Section 25-61-7(1), Miss. Code of 1972, reads as follows: "Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records."

A requestor may obtain standard black and white photocopies for fifteen (15) cents per page and color copies for twenty-five (25) cents per page.

Before the Board begins to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment.

(2) **Costs for electronic records.** The cost of electronic copies of records shall be ten (10) dollars for information on a CD-ROM. The cost of scanning existing MSBML paper or other non-electronic records is ten (10) cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2), Miss. Code of 1972.

(3) **Costs of mailing.** The Board may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check, or money order to the Board.

(5) **Charges for searching, reviewing and redacting.** The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

(6) The Board may require payment in advance for all costs before providing copies or access to records.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*

Rule 2.9 Review of denials of public records.

(1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer must promptly provide the petition and any other relevant information to the Board's Executive Director. The Executive Director will immediately consider the petition and either affirm or reverse the denial within two

business days following the Board's receipt of the petition, or within such other time as the Board and the requestor mutually agree to.

(3) **Review by the Ethics Commission.** Pursuant to Section 25-61-13, if the Board denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

(4) **Judicial review.** Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Adopted March 19, 2015.

Source: *Miss. Code Ann. §73-43-11 (1972, as amended).*