

IC 16-39

ARTICLE 39. HEALTH RECORDS

IC 16-39-1

Chapter 1. Release of Health Records to Patient and Authorized Persons

IC 16-39-1-1

Right of access; written requests; effective duration

Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

- (1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or
- (2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

- (1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.
- (2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.
- (3) A contact lens prescription must include the following:
 - (A) An expiration date of one (1) year.
 - (B) The number of refills permitted.
- (4) Instructions for use must be consistent with:
 - (A) recommendations of the contact lens manufacturer;
 - (B) clinical practice guidelines; and
 - (C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

- (1) A copy of the patient's health record used in assessing the patient's health condition.
- (2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) A request made under this section is valid for sixty (60) days after the date the request is made.

As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.66; P.L.102-1994, SEC.1; P.L.2-1995, SEC.72; P.L.108-1996, SEC.4; P.L.157-2006, SEC.4.

IC 16-39-1-2

X-rays

Sec. 2. Upon a patient's written request and reasonable notice, a provider shall, at the provider's actual costs, provide to the patient or the patient's designee:

- (1) access to; or
- (2) a copy of;

the patient's x-ray film possessed by the provider.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-3

Persons entitled to request records

Sec. 3. (a) Health records may be requested by a competent patient if the patient is:

- (1) emancipated and less than eighteen (18) years of age; or
- (2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate. If the deceased does not have a personal representative, the spouse of the deceased patient may make a request. If there is no spouse:

- (1) a child of the deceased patient; or
- (2) the parent, guardian, or custodian of the child if the child is incompetent;

may make a request.

As added by P.L.2-1993, SEC.22. Amended by P.L.28-2002, SEC.1.

IC 16-39-1-4

Patient's written consent for release of records; contents

Sec. 4. Except as provided in IC 16-39-5, a patient's written consent for release of the patient's health record must include the following:

- (1) The name and address of the patient.
- (2) The name of the person requested to release the patient's record.
- (3) The name of the person or provider to whom the patient's health record is to be released.
- (4) The purpose of the release.
- (5) A description of the information to be released from the health record.
- (6) The signature of the patient, or the signature of the patient's legal representative if the patient is incompetent.
- (7) The date on which the consent is signed.
- (8) A statement that the consent is subject to revocation at any

time, except to the extent that action has been taken in reliance on the consent.

(9) The date, event, or condition on which the consent will expire if not previously revoked.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-5

Withholding requested information

Sec. 5. If a provider who is a health care professional reasonably determines that the information requested under section 1 of this chapter is:

(1) detrimental to the physical or mental health of the patient;

or

(2) likely to cause the patient to harm the patient or another;

the provider may withhold the information from the patient.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-6

Inpatient requests

Sec. 6. This chapter does not authorize a patient to obtain a copy of the patient's health records while the patient is an inpatient of a hospital, health facility, or facility licensed under IC 12-24 or IC 12-29. However, if the inpatient is:

(1) unemancipated and less than eighteen (18) years of age, a parent, guardian, or next of kin (if the patient does not have a parent or guardian) is entitled to obtain a copy of the health records of the inpatient;

(2) incompetent to request the patient's own health records, a spouse, parent, guardian, or next of kin (if the patient does not have a parent, spouse, or guardian) is entitled to obtain a copy of the health records of the inpatient; or

(3) competent, a spouse, parent or next of kin (if the patient does not have a parent or spouse) is entitled to obtain a copy of the health records of the inpatient if the inpatient requests that the records be released.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-7

Child's health records; access to custodial and noncustodial parents

Sec. 7. (a) Except as provided in subsection (b), a custodial parent and a noncustodial parent of a child have equal access to the parents' child's health records.

(b) A provider may not allow a noncustodial parent access to the child's health records if:

(1) a court has issued an order that limits the noncustodial parent's access to the child's health records; and

(2) the provider has received a copy of the court order or has actual knowledge of the court order.

(c) If a provider incurs additional expense by allowing a parent

equal access to health records under this section, the provider may require the parent requesting the equal access to pay a fee to cover the cost of the additional expense.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-8

Copying fees

Sec. 8. Except as provided in section 2 of this chapter, IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

As added by P.L.102-1994, SEC.2.

IC 16-39-1-9

Alcohol and drug abuse records

Sec. 9. Alcohol and drug abuse records described in 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3 may not be disclosed unless authorized in accordance with 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3.

As added by P.L.4-1997, SEC.3.