



WHO CONTROLS MY MEDICAL RECORDS?

With the advent of physician group practices, physicians often leave their former positions to start new physician groups or to open their own practices. However, physicians must be aware of their duties and responsibilities with regard to the physician's patient medical records. Upon departing his or her current medical practice, physicians must be aware of not only who owns the patient's medical records but also who controls and maintains said records.

According to Florida law, physicians are considered "records owners" for all their patients' medical records. This means physicians (or their physician practice group), as "record owners," are responsible for developing and implementing policies, standards, and procedures to protect the confidentiality and security of said medical records. In the majority of cases, the physician is the owner of a patient's medical records. However, in some instances, a physician group may actually be the "records owner" of a patient's medical records rather than the patient's physician if the physician's employment agreement so provides. It is

important for physicians to note, however, that while the patient is not the owner of his or her medical records, patients do have rights with respect to such medical records once their physician leaves his or her current group practice or setting.

Under Florida law, physicians must take certain steps, such as written notice and taking out newspaper advertisements, to notify his or her patients when the physician is leaving his or her practice. Additionally, the physician must also give his or her patients the opportunity to obtain a copy of their medical records. The patient is allowed to request a transfer of medical records from his or her former physician to the current one, thereby making the patient's new physician the "records owner." However, the patient also has the option of allowing his or her former physician to retain the patient's medical records which, in that instance, the physician may generally only discard after a minimum of five years from the last contact with the patient. Physicians should be aware this five year time period may extend even longer for medical records of patients enrolled under certain government programs.

Florida law suggests that physicians provide copies of their former patients' medical records free of charge upon request;

however, physicians are authorized to charge "reasonable" costs for producing their patient's medical records. The «reasonable» costs of reproducing a copy of a medical record, as specified under Florida law, is one dollar per page for the first twenty-five pages and twenty-five cents for each page thereafter. «Reasonable» costs of reproducing X-rays and other special kinds of records, as specified under Florida law, are the actual costs of reproducing the records.

If a patient requests his or her medical records and the patient's former physician fails to provide copies of said records, the patient does have recourse against the physician. The Department of Health may take action against a physician that refuses to satisfy a patient's request for his or her medical records by either fining the physician a minimum fee of \$1,000, sending the physician a letter of concern, or imposing a maximum fine of \$5,000 plus one year of probation.

Given the complexity in this area as well as the potential for noncompliance penalties, physicians must stay proficient in their understanding of the legal requirements with respect to ownership, maintenance, control and notification requirements with regard to patient medical records. ¹



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