

Requesting My Medical Records



Dear ALRP,

I often wonder what is in my file at my doctor's office where I receive care for HIV. Since the records in my file are about me, can't I just ask for the file and take it whenever I choose? What about if I want to change doctors?

- *Curious*

Dear Curious,

Medical records do not belong to the patient, but are instead the property of the medical provider or facility that prepares them. However, there is a law that establishes your right as a patient to see and receive copies of your medical records. A patient's records include any records relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. The law, Section 123110 of the California Health and Safety Code, says that if you make a written request to your medical provider, then they must allow you to view your records within five working days of your written request. The provider must allow you to bring a person of your choosing with you, or you may also designate a representative to view and receive copies of your records. The provider may also require you to verify your identity by showing identification. Payment of reasonable clerical costs may be imposed.

Requesting Copies of Medical Records

If you want copies of your records, you should request copies in writing. Your medical provider must provide you with copies of your records within 15 days of your request. Usually there is no fee for the cost of copying, but the fee cannot exceed 25 cents per page for normal pages or 50 cents per page for records that are copied from microfilm. The provider may also charge reasonable clerical costs. However, if you are requesting copies of your medical records in order to apply for Social Security disability, the copying charges ought to be waived.

Transferring Medical Records

If you are thinking about changing doctors, then you should know the transfer of your medical records to a new doctor is considered a professional courtesy and is not covered under this law. The doctor may charge a copying fee – the same as if you request a copy for yourself. However, doctors usually waive the fee if the request is from another medical provider. There are no time limits on transferring the records. If you want to be sure your new doctor receives your medical records, you can always request in writing that the records be given to you and then you can provide a copy of these records to whomever you choose.

Remember, if you do request records for yourself then the doctor must provide the copies of the records within 15 days of the receipt of your request.

Exceptions

There is an extremely limited exception to the law. A medical provider may refuse to show a patient his or her medical records if the physician determines that doing so would present a significant risk of detrimental consequences to the patient. If the doctor decides this is the case, he or she must make a written record of the specific circumstances of the denial and include it in the patient's file. The physician must permit a different physician, psychologist, therapist, or social worker (as designated by the patient) to examine the records. However, these healthcare providers will not be allowed to permit inspection or copying by the patient. Physicians must inform their patients of their decision to deny permission to inspect or copy the patients' records. In addition, physicians must also inform their patients that they can request that their records be shared with another healthcare professional.

This Legal Q&A Guide was last revised in July 2011. It is intended to provide general legal information to people living with HIV/AIDS in California. However, because laws change frequently ALRP cannot ensure the complete accuracy of the information included. Please call ALRP at (415) 701-1100 to consult with an ALRP attorney about your legal rights in your particular situation.