



Medical Records Fact Sheet - New Fees Effective January 2021

Retention of Medical Records

Medical considerations remain the key basis for deciding how long to retain medical records, whether in paper or electronic format, but providers must also comply with certain requirements. The Code of Medical Ethics of The American Medical Association establishes [rules](#) relating to the maintenance of patient records.¹ Under Ohio [law](#),² violating the ethical rules of the American Medical Association, the American Osteopathic Association, or the American Podiatric Medical Association can result in disciplinary action by the Ohio State Medical Board. Most states, including Ohio, do not have specific laws mandating the minimum record retention period for patient medical records. However, HIPAA and the [Ohio Medicaid rules](#) mandates the retention of records for a period of at least six (6) years after payment of the claim to the provider.³ For consistency purposes, it is also recommended that records relating to Medicare beneficiaries be kept for at least six (6) years as well although Medicare Conditions of Participation only requires a five (5) year retention period.⁴ Managed care contracts should also be reviewed to ensure compliance with any contractual retention period. In all cases, medical records should be kept for the length of time of the statute of limitations for medical malpractice claims. Under Ohio [law](#), an action for medical malpractice must be brought within one (1) year after the cause of action “accrues.”⁵ However, there are various exceptions or special rules. For example, the statute of limitations in wrongful death cases is two (2) years after the date of death. In the case of a minor, the statute of limitations does not begin to run until the minor has reached his or her 18th birthday. The statute can also be “tolled” or otherwise extended under various circumstances. As a practical matter, relying merely on the statute of limitation is difficult. If you are discarding or destroying medical records, patients should be given the opportunity to claim the records or have them sent to another physician. The AMCNO recommends that physicians keep medical records indefinitely, if feasible.

Update on Providing Charging for Copies of Medical Records

There are very limited circumstances under which a provider may refuse to make patient records promptly available to the patient, the patient’s “personal representative”⁶ or “authorized person”⁷ (not an insurer), or another provider treating the patient upon written request signed by the patient or by the patient’s personal representative or authorized person. For example, medical records cannot be withheld because of unpaid medical bills. However, if a physician who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, then the physician can provide the record to a physician chosen by the patient instead of the patient directly. The [HIPAA Privacy Rule](#)⁸ requires covered entities to take action within thirty (30) days (sixty (60) days if an extension is applicable) when a patient or a personal representative requests access to or transfer of protected health information (PHI) to a third party. Ohio law establishes maximum fees that may be charged by health care providers or medical records companies that receive a valid request for a copy of patient’s medical records.⁹ These fees are adjusted annually in accordance with the CPI. Ohio law provides for certain limited situations in which copies of records must be provided without charge, notably where the records are necessary to

¹ Code of Medical Ethics Opinion 3.3.1, available at <https://www.ama-assn.org/delivering-care/management-medical-records>

² Ohio Revised Code § 4731.22 (B)(18), available at <http://codes.ohio.gov/orc/4731.22>

³ Ohio Revised Code § 2913.40(D), available at <http://codes.ohio.gov/orc/2913.40>

⁴ Medicare Conditions of Participation, Medical Record Service, available at <https://www.gpo.gov/fdsys/pkg/CFR-2004-title42-vol3-sec482-24.xml/CFR-2004-title42-vol3-sec482-24.xml>

⁵ Ohio Revised Code § 2305.113, available at <http://codes.ohio.gov/orc/2305.113v2>

⁶ Ohio Revised Code § 3701.74(11), available at <http://codes.ohio.gov/orc/3701.74>

⁷ Ohio Revised Code § 3701.74(14), available at <http://codes.ohio.gov/orc/3701.74>

⁸ HIPAA Privacy Rule 45 CFR § 164.524, available at https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=c3ff1b3dfc7fa4e6ae460a5d3651c881&mc=true&n=pt45.1.164&r=PART&ty=HTML#se45.1.164_1524

⁹ Fees defined by Ohio law are consistent with fees permitted by HIPAA. For additional information regarding the interplay between State Laws and HIPAA, please see <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html#:~:text=A%20covered%20entity%20may%20charge,supplies%2C%20and%20any%20applicable%20postage.>

support a claim for Social Security disability benefits. [Ohio law](#)¹⁰ also adopted a HIPAA-compliant [standardized authorization form](#) to release medical records that is not mandatory but that must be accepted if properly executed.

Effective January 2021, the [following maximum fees](#)¹¹ apply when the request comes from a patient or patient's personal representative:

- No records search fee is allowed but the actual cost of postage may be charged
- For data recorded on paper or electronically: \$3.35 per page for the first ten pages; \$0.70 per page for pages 11 through 50; \$0.28 per page for pages 51 and higher
- For data resulting from an X-ray, MRI, or CAT scan recorded on paper or film: \$2.30 per page

The following maximum fees apply when the request comes from a person or entity other than a patient or a personal representative:

- A \$20.68 records search fee and the actual cost of postage may be charged
- For data recorded on paper or electronically: \$1.36 per page for the first ten (10) pages; \$0.70 per page for pages 11 through 50; \$0.28 per page for pages 51 and higher
- For data resulting from an x-ray, MRI, or CAT scan: \$2.30 per page

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¹⁰ Ohio Administrative Code § 5160-1-32.1, available at <http://codes.ohio.gov/oac/5160-1-32.1>

¹¹ Maximum charges under Ohio law for 2021, available at https://odh.ohio.gov/wps/wcm/connect/gov/c4010dbf-8377-4d86-84fc-d5a3e84ab001/CPI+rate+calculation+for+Ohio+Revised+Code+3701.742+for+CY2021_updated+03.29.21.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-c4010dbf-8377-4d86-84fc-d5a3e84ab001-nx.B2j2{7219761:5 }