

**Mississippi Secretary of State**  
 125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Mississippi State Board of Medical Licensure		CONTACT PERSON Mike Lucius	TELEPHONE NUMBER 601-987-0248	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 6/11/21	Name or number of rule(s): Part 2630 Chapter 10; Release of Medical Records		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Revising and minor restructuring of current rules regarding release of medical records. Updating language to clarify terms and Board authority.

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann., §73-43-11

List all rules repealed, amended, or suspended by the proposed rule: Chapter 10 – Rules 10.1 thru 10.9

**ORAL PROCEEDING:**

- An oral proceeding is scheduled for this rule on Date: \_\_\_\_\_ Time: \_\_\_\_\_ Place: \_\_\_\_\_
- Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

**ECONOMIC IMPACT STATEMENT:**

- Economic impact statement not required for this rule.  Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	<b>Action proposed:</b> <input checked="" type="checkbox"/> New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference <b>Proposed final effective date:</b> <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: _____ <b>Action taken:</b> _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed <b>Effective date:</b> _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Mike Lucius, Deputy Director

Signature of person authorized to file rules: *Mike Lucius*

OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP <div style="border: 1px solid black; padding: 10px; text-align: center;"> <p><b>FILED</b></p> <p><b>JUN 11 2021</b></p> <p>Mississippi Secretary of State</p> </div> Accepted for filing by <u><i>25658</i></u> <u><i>J Mann</i></u>	OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

## ***Part 2635 Chapter 10: Release of Medical Records***

### *Rule 10.1 / Definitions*

For the purpose of Part 2635, Chapter 10 only, the following terms have the meanings indicated:

- A. “Licensee” means any person licensed to practice by the Mississippi State Board of Medical Licensure (the “Board”).
- B. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation, billing records, and any hospital admission/discharge records which the licensee may have, or which is otherwise maintained by the group or facility wherein said licensee practices medicine.
- C. “Patient” means any person who receives or should have received health care from a licensee, under a contract, express or implied, whether or not the licensee is compensated for services rendered.
- D. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.<sup>1</sup>
- E. “Authorized Requesting Party” includes patient and legal representative as defined above who holds a valid written release and authorization.

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

### *Rule 10.2 / Medical Records - Property of Licensee*

Medical records, as defined herein, are and shall remain the property of the licensee in whose facility said records are maintained, subject to reasonable access to the information by authorized individuals or entities.

In the case of employed or contracted licensees (those lacking authority to manage or maintain medical records), medical record ownership shall be determined by federal and state statutes and regulations. Licensees in such relationships shall make reasonable efforts to assure reasonable access to the information by authorized individuals or entities. Further, licensees should inform patients of procedures for release of records if the licensee is not the custodian of the records.

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

### *Rule 10.3 / Regulatory and Legal Requests*

The Board has the authority to investigate licensees as part of its mission to protect the public.<sup>2</sup> Further, continued licensure by the Board requires the production of medical records when requested.<sup>3</sup> When provided an administrative (i.e., legal) request for in-person inspection or

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<sup>1</sup> See Miss. Code Ann., §41-10-3 for further authority and information.

<sup>2</sup> Miss. Code Ann., §73-43-11

<sup>3</sup> 30 Miss. Admin. Code Pt.2640, R.1.4 *Patient Record*

production of copies for removal by the Board, licensees shall comply and provide all records as requested.

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

#### *Rule 10.4 | Transfer of Patient Records to Another Licensee*

A licensee shall not refuse for any reason to make the information contained in the medical records available upon valid request by authorized requesting party to another licensee presently treating the patient. The licensee has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the licensee must tender a copy of said documents to the other licensee within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

#### *Rule 10.5 | Release of Patient Records to Patient*

A licensee shall, upon request of authorized requesting party holding a written release and authorization, provide a copy of a patient's medical record to the authorized requesting party within a reasonable period of time.

In those cases where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the licensee shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The licensee has a right to request a written authorization prior to release of the records to any party other than the patient. Upon receipt of the written release and authorization, the licensee must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

#### *Rule 10.6 | Narrative Summary of Medical Record*

In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the licensee may provide the narrative summary. The licensee may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

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

*Rule 10.7 / Duplication and Administrative Fees*

- A. Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows:
1. Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to an authorized requesting party for photocopying any patient's records:
    - i. Twenty Dollars (\$20.00) for pages one (1) through twenty (20);
    - ii. One Dollar (\$1.00) per page for the next eighty (80) pages;
    - iii. Fifty Cents (50¢) per page for all pages thereafter.
    - iv. Ten percent (10%) of the total charge may be added for postage and handling.
    - v. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located.
    - vi. In addition, the actual costs of reproducing x-rays or other special records may be included.
    - vii. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

*Source: Miss. Code Ann. §11-1-52 (1972, as amended).*

*Rule 10.8 / Exclusion*

Federal or state agencies providing benefit programs as well as contractual third-party payers and administrators are excluded from the above stated fees. Records that are requested by state or federal agencies as well as contracted payers and administrators may be billed at rates established by those payers and contracts. The release of records as requested by state or federal agencies or third-party payers and administrators may not be refused for failure to pay required fees.

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

*Rule 10.9 Violation of Rules*

A refusal by a licensee to release patient records shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

### *Rule 10.1 / Definitions*

For the purpose of Part 2635, Chapter 10 only, the following terms have the meanings indicated:

- A. “Licensee” means any person licensed to practice ~~medicine, osteopathic medicine, podiatric medicine or acupuncture in the state of Mississippi~~ by the Mississippi State Board of Medical Licensure (the “Board”).
- B. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation, billing records, and any hospital admission/discharge records which the licensee may have, or which is otherwise maintained by the group or facility wherein said licensee practices medicine.
- C. “Patient” means any natural ~~any~~ person who receives or should have received health care from a ~~licensed~~ licensee, under a contract, express or implied, whether or not the licensee is compensated for services rendered.
- D. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.<sup>4</sup>
- E. “Authorized Requesting Party” includes patient and legal representative as defined above who holds a valid written release and authorization.

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

### *Rule 10.2 / Medical Records - Property of Licensee*

Medical records, as defined herein, are and shall remain the property of the licensee in whose facility said records are maintained, subject to reasonable access to the information by authorized individuals or entities.

In the case of employed or contracted licensees (those lacking authority to manage or maintain medical records), medical record ownership shall be determined by federal and state statutes and regulations. Licensees in such relationships shall make reasonable efforts to assure reasonable access to the information by authorized individuals or entities. Further, licensees should inform patients of procedures for release of records if the licensee is not the custodian of the records.

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

### *Rule 10.3 / Regulatory and Legal Requests*

The Board has the authority to investigate licensees as part of its mission to protect the public.<sup>5</sup> Further, continued licensure by the Board requires the production of medical records when requested.<sup>6</sup> When provided an administrative (i.e., legal) request for in-person inspection or production of copies for removal by the Board, licensees shall comply and provide all records as requested.

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<sup>4</sup> See Miss. Code Ann., §41-10-3 for further authority and information.

<sup>5</sup> Miss. Code Ann., §73-43-11

<sup>6</sup> 30 Miss. Admin. Code Pt.2640, R.1.4 *Patient Record*

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

*Rule 10.34 Transfer of Patient Records to Another Licensee.* A licensee shall not refuse for any reason to make the information contained in the medical records available upon valid request by authorized requesting party to another licensee presently treating the patient. The licensee has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the licensee must tender a copy of said documents to the other licensee within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

*Rule 10.45 Release of Patient Records to Patient.* A licensee shall, upon request of authorized requesting party holding a written release and authorization, provide a copy of a patient's medical record to the authorized requesting party within a reasonable period of time.

In those cases where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the licensee shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The licensee has a right to request a written authorization prior to release of the records to any party other than the patient. Upon receipt of the written release and authorization, the licensee must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

*Rule 10.56 Narrative Summary of Medical Record.* In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the licensee may provide the narrative summary. The licensee may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

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

*Rule 10.67 Duplication and Administrative Fees.*

- A. Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows:
  2. Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to an authorized requesting party for photocopying any patient's records:
    - i. Twenty Dollars (\$20.00) for pages one (1) through twenty (20);
    - ii. One Dollar (\$1.00) per page for the next eighty (80) pages;
    - iii. Fifty Cents (50¢) per page for all pages thereafter.
    - iv. Ten percent (10%) of the total charge may be added for postage and handling.

- v. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located.
- vi. In addition, the actual costs of reproducing x-rays or other special records may be included.
- vii. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

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*Rule 10.78 Exclusion.* Federal or state agencies providing benefit programs as well as contractual third-party payers and administrators are excluded from the above stated fees. Records that are requested by state or federal agencies as well as contracted payers and administrators may be billed at rates established by those payers and contracts. The release of records as requested by state or federal agencies or third-party payers and administrators may not be refused for failure to pay required fees.

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

*Rule 10.89 Violation of Rules.* A refusal by a licensee to release patient records shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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