

Requests for Patient Records - How to Respond

Dentists and their staff have a duty to protect the privacy of patients; in fact, state statutes mandate patient confidentiality. In many states, the statutes also provide that a dentist's license may be investigated for betrayal of a professional confidence. Such confidentiality provisions should be kept in mind whenever you respond to requests for dental information about a patient.

ProNational's risk management staff fields many questions about patient confidentiality and the appropriate response to requests for records. Responses to the most frequently asked questions may help address some of your questions and concerns about the release of patient information.

Who owns the dental chart?

It is generally recognized that health care records are owned by the practitioner, not the patient. At the same time, it is also widely recognized that patients have a right of access to their health care records, which means you must allow patients to review information in their dental chart.

How should I allow patients to review information in their dental chart?

If a patient asks for his/her chart, you should either provide the patient with a copy of the chart or allow the patient to review the original chart at your office. A word of caution – if you allow a patient to review the original chart, one of your employees should monitor the patient who is reviewing materials. Doctors have reported that patients have walked out of their offices with charts, and some patients have even altered or removed documents from the original chart.

Why should I release a copy of the chart and not the original?

Releasing the original chart is a dangerous practice because you lose control over the original chart. The original chart will be crucial evidence if you are involved in subsequent litigation. Never release an original dental chart unless you

receive a court order signed by a judge, ordering you to produce the original. (Such judge-signed orders are very rare.)

How should requests for original records from copy services be handled?

Releasing the original chart to a copy service is also a dangerous practice. While copy services are extremely careful and reliable in their handling of records, loss or damage to the records is always a possibility. When you receive a request for records by a copy service, make your own copies and forward the copies to the copy service or the appropriate requesting agency.

Can I charge patients for copies of their chart?

Most court rules and court cases allow you to charge patients a "reasonable fee" for copies of records. You may want to check with other dentists in your area to determine if your copying fees are similar to other practices.

Keep in mind, however, that occasional state laws or regulations may limit what you can charge for copies. For example, Michigan statute provides that you can only charge 15 cents per page plus \$4.00 postage and handling for records needed in workers' compensation hearings.

If you receive a request for records, and the requesting party insists they only have to pay a certain fee for copies, ask the requesting party for their authority (statute, court rule, etc.) for the specific fee. You may then call ProNational's Risk Management Department for assistance in determining whether the asserted fee is correct.

What records should be released?

For the most part, this is controlled by the patient's signed authorization. If the signed authorization indicates that the patient only wants certain portions of the record released, you must comply with the patient's limited authorization. On the other hand, the signed authorization may state that you must release "any and all" dental records of the patient. If the patient authorizes the release of "any and all" records, you should release all of that patient's records generated

through your office.

Should I release copies of records created by other doctors or facilities?

If the records were created by another doctor or facility in response to an order or referral by you, copies of those records should be included with your copy of the patient's chart. However, if the other doctor's or facility's records were not created in response to an order or a referral by you, do not release a copy of the records.

If you release copies of a patient's records in response to a request for "any and all" records, and do not include copies of another doctor's or facility's records, attach a cover letter indicating that your chart contains records from another source, and the requesting party should contact that source directly for copies of those records.

Should I get a signed authorization by a patient before I release a copy of the chart?

Since statutes require that you maintain patient confidentiality, you should obtain a signed authorization from the patient prior to releasing any information to another person or entity.

At minimum, the signed authorization should include:

- the patient's name;
- the name of the individual/entity to which authorization is given to receive information;
- a description of the records the patient wants you to release (specific dates, etc.);
- the patient's signature and the date; and
- a witnessing signature.

In addition, the signed authorization should include check boxes to indicate whether the patient specifically authorizes the release of portions of his/her chart which discuss:

1. substance abuse and/or treatment;
2. mental health treatment; and/or
3. HIV status and/or related diseases.

If a patient authorizes the release of his/her record to

another party, but refuses to allow you to release information in any one of these three subject areas, you will need to make a copy of the patient's chart, delete the information on the copy (not the original!), and release a copy with the information omitted. For a sample dental record release form, call ProNational's Risk Management Department and ask for Kelli Cooper at 800/282-1036, extension 6241.

Do I ALWAYS need a signed authorization by the patient prior to releasing a chart?

As a general rule you should obtain a signed authorization by the patient prior to releasing the chart; however, there may be occasions where you are obligated to release information on a patient to a specific agency with or without the patient's permission. Although these situations are rare, you may encounter them in your practice. These include:

- child abuse;
- adult abuse;
- wounds caused by violence;
- communicable diseases, including dog bites;
- investigations by state licensing boards; and/or
- cancer diagnoses.

If someone contacts your office and demands a copy of the patient's record without the patient's authorization, explain your obligation to maintain patient confidentiality and request a signed authorization by the patient. If the individual or entity tells you they do not need a signed patient authorization, explain that you wish to cooperate, but need information on the requester's authority (statute, etc.) to obtain a copy of the chart without the patient's permission. Again, you may contact ProNational's Risk Management Department for assistance in verifying that the requesting party has the proper authority to obtain the patient's chart.

If you have additional questions...

ProNational's Risk Management Department stands ready to assist you with any questions regarding the release of dental records or other risk management topics. Please feel free to call us: 800/292-1036.



© Copyright 2003 ProNational, Inc. All Rights Reserved