



**LEGAL
SERVICES**

INCORPORATED

How Do I Get Access to My Clinical Records?

WHAT IS A CLINICAL RECORD?

A clinical record is any information related to mental health examinations or treatment you have received or are currently receiving at a facility licensed or operated by the New York State Office of Mental Health. Under New York Mental Hygiene Law §33.13, such a facility is under a duty to keep records of your treatment.

Under New York law, facilities are held to a high standard of confidentiality with respect to these records. These are not public records, and will not be released without the consent of the patient, unless they are in an excepted category.¹

DO I HAVE A RIGHT TO ACCESS MY CLINICAL RECORDS?

Yes. Under Federal and New York law, a patient/client of certain facilities² (e.g., psychiatric hospital, psychiatric ward, mental health clinic) has the right to access his/her own clinical records.

However, a provider may deny access to all or part of your medical records and give you a prepared summary of the record instead, if the provider believes that the information can reasonably be expected to cause “substantial and identifiable harm” to you (the patient/client) or another person.

HOW DO I OBTAIN MY CLINICAL RECORD?

To obtain copies or inspect your record in person, write a letter to the director of the facility that maintains your records or the person who handles clinical record requests. Indicate what information you want. You may have to include dates you were admitted to the facility, length of your stay and your social security number.

HOW LONG WILL IT TAKE TO RECEIVE MY CLINICAL RECORDS?

If you made a request to see the record in person at the facility, and there are no objections to your accessing the record, your record must be provided to you within 10 days of the written request. If you have requested copies, the facility shall provide copies to you within a “reasonable time” period.

If you want copies, a facility cannot charge you more than 75 cents per page. If you cannot afford the cost of copies, you are still entitled to your clinical records.

¹ Clinical records can be released by an order of a court or with the consent of the patient or client or of someone authorized to act on the patient's or client's behalf. Clinical records can also be released to the Mental Hygiene Legal Service; attorneys representing patients or clients in proceedings in which the patients' or clients' involuntary hospitalization or assisted outpatient treatment is at issue; the New York State Commission on Quality of Care for the mentally disabled; the medical review board of the State Commission of Correction; an endangered individual and a law enforcement agency when a treating psychiatrist or psychologist has determined that a patient or client presents a serious and imminent danger to that individual; the State Board of Professional Medical Conduct; a correctional facility with respect to named inmates; a Director of Community Service (as defined in the Mental Hygiene law); New York State Division of Criminal Justice Services; and upon the consent of appropriate New York State government commissioners. Records may also be disclosed with the consent of the patient or client to a person or entity provided that the person or entity has a demonstrable need for the information contained in the records.

² This applies to facilities as defined by Mental Hygiene Law §33.16, licensed by the State Office of Mental Health.

WHAT SHOULD I DO IF I AM DENIED ACCESS TO MY RECORDS?

If you are denied access to your records, you will be informed by the facility of your right to obtain, without cost, a review of the denial by the Medical Record Access Review Committee. The facility is required to provide you with the Denial of Access to Patient Information and Appeal Form with its decision. Send your appeal letter to:

Access to Patient Information Coordinator
New York State Department of Health
Riverview Center
150 Broadway, Suite 355
Albany, NY 12204-2719

You should include an explanation with your request. Include dates of your requests for documents, the business address of the records officer, your name and return address. The Patient Information Coordinator will notify the provider and the review committee of your appeal. The provider then has 10 days to send the information to the committee, along with a statement explaining why access was denied. The committee will review the records, provide you a chance to be heard and issue a written determination.

If the Medical Record Access Review Committee denies your request, you have a right to begin a special proceeding in New York State Supreme Court, which will determine whether a reasonable basis exists for the facility to deny access.

WHAT CAN I DO IF I BELIEVE MY CLINICAL RECORD IS INACCURATE?

If you believe there is a mistake in your record regarding *factual information*, you may write a short statement disagreeing with parts of your record and this becomes a permanent part of your medical record.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.'s Government Benefits Project at 212-417-3732 on Mondays from 10:00 a.m. to 12:00 p.m. If you are a mental health consumer you may call MFY's Mental Health Law Project at 212-417-3830 on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m.

**DISCLAIMER: This fact sheet gives general information
for NYC residents; it is NOT legal advice.**