

HEALTH

HEALTH SYSTEMS BRANCH

DIVISION OF CERTIFICATE OF NEED AND LICENSING

Hospital Licensing Standards

Medical Records

Medical Record Patient Services

Proposed Amendment: N.J.A.C. 8:43G-15.3

Authorized By: Kaitlan Baston, MD, MSc, DFASAM, Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5 and 5.n; and P.L. 2019, c. 217, §§ 3 and 4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-069.

Submit written comments by September 5, 2025, electronically to www.nj.gov/health/legal/ecomments.shtml, or by regular mail to:

Kimberly E. Jenkins, Director

Office of Legal and Regulatory Compliance

Office of the Commissioner

New Jersey Department of Health

PO Box 360

Trenton, NJ 08625-0360

The agency proposal follows:

Summary

N.J.A.C. 8:43G, Hospital Licensing Standards, at Subchapter 15, establishes standards for the maintenance of medical records. N.J.A.C. 8:43G-15.3, Medical record patient services, establishes standards by which a hospital is to provide medical records to its patients. The section authorizes hospitals to charge a patient, or the patient's legally authorized representative, fees for copies of the patient's medical record.

On October 7, 2024, the Department of Health (Department) received a petition for rulemaking from Stacy Noonan, Esq., Managing Attorney, Community Health Law Project (petitioner), requesting that the Department amend N.J.A.C. 8:43G-15.3. 57 N.J.R. 96(a). The petitioner stated that N.J.A.C. 8:43G-15.3, which the Department last amended in 2011, conflicts with the more recently enacted amendments to statutes, N.J.S.A. 26:2H-5.n and 45:9-22.27, addressing the fees that hospitals and other health care professionals can charge for copies of patient records. *Id.*

Specifically, the petitioner noted that N.J.S.A. 26:2H-5.n, Hospital to provide medical, billing records; fees, at paragraph (d)5, prohibits the imposition of otherwise allowable fees for patient records upon a "patient or an attorney representing a patient who has a pending application for, or is currently receiving, [F]ederal Social Security disability benefits provided under Title II or Title XVI of the [F]ederal Social Security Act," and that N.J.S.A. 45:9-22.27, Health care professionals to provide copies of treatment, billing records; fees, at paragraph (j)4, likewise prohibits a health care professional from imposing otherwise allowable patient record fees upon a patient, or the attorney for a patient, who is applying for, or receiving, Social Security Disability Benefits, P.L. 2021, c. 359 (approved and effective January 10, 2022) and established

these prohibitions against the imposition of fees for access to patient records. *Id.* The petitioner requested that the Department amend N.J.A.C. 8:43G-15.3 to reconcile the rule to the statutes described above; that is, to prohibit the imposition of fees for copies of medical records being requested by a patient, or the attorney for the patient, who is applying for, or receiving, Social Security Disability Benefits. *Id.*

The Department published a notice of action on the petition for rulemaking announcing that the Department had reviewed, and, for the reasons the petitioner stated, determined to grant the petition and initiate the rulemaking. 57 N.J.R. 730(d). The Department proposes to amend N.J.A.C. 8:43G-15.3 to reflect the statutory prohibition against hospitals charging fees for requests for medical records to patients who receive, or who have applied to receive, Social Security Disability Benefits, and the attorneys representing the patients.

The Department is providing a 60-day comment period for this rulemaking. Therefore, the notice of proposal is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment would have a beneficial social impact on New Jersey recipients of and/or applicants for Social Security benefits, as well as the attorneys who represent such recipients and/or applicants, by removing a potential financial barrier for such individuals seeking copies of their medical records.

Economic Impact

Patients who receive, or who have applied to receive, Social Security Disability Benefits and the attorneys who represent such patients would realize cost savings as a

result of the proposed amendment's prohibition on fees attached to patient requests for medical records. Hospitals would incur costs to provide copies of records without charging fees. Hospitals that fail to comply or adhere to the prohibition would be subject to Department enforcement action, which may include the imposition of applicable penalties for noncompliance, pursuant to N.J.A.C. 8:43E-3.4, and may incur associated attorney fees to defend against such actions.

Federal Standards Statement

The proposed amendment is not subject to any Federal standard or requirement and the Department does not propose the amendment pursuant to the authority of, or to implement, comply with, or participate in, any program established pursuant to Federal law or a State statute that incorporates or refers to Federal law, standards, or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that the proposed amendment would result in an increase or decrease in the number of jobs in the State.

Agriculture Industry Impact

The proposed amendment would not have an impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

None of the State's hospitals are considered "small businesses" within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because each hospital employs more than 100 persons full-time; therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendment would have no impact on the affordability of housing in New Jersey and would not evoke a change in the average costs associated with housing, because the proposed amendment would address the fees that hospitals can impose upon patient medical records and would have no bearing on housing prices or costs.

Smart Growth Development Impact Analysis

The proposed amendment would not have an impact on the achievement of smart growth and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendment only addresses the fees hospitals can impose for patient medical records and would have no bearing on development or housing production.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**):

SUBCHAPTER 15. MEDICAL RECORDS

8:43G-15.3 Medical record patient services

(a)-(e) (No change.)

(f) A hospital shall not impose the fees authorized pursuant to (d) above upon a patient, or an attorney representing a patient, who has a pending application for, or is currently receiving, Federal Social Security Disability Benefits provided pursuant to Title II or Title XVI of the Federal Social Security Act, Pub L.92-603 (42 U.S.C. §§ 1351 et seq.).

Recodify existing (f)-(g) as **(g)-(h)** (No change in text.)