

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1165

H. P. 935

House of Representatives, March 12, 1979

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

Cosponsors: Mr. McMahon of Kennebunk, Mr. Rolde of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Relating to Access, Copying and Release of Medical Records.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 1711, as enacted by PL 1977, c. 122, is repealed and the following enacted in its place:

§ 1711. Notice of, and provisions for, access and copying of medical records

1. Notice. An institution licensed or certified by the State as a hospital, intermediate care facility or skilled nursing facility shall provide written notice, publicly displayed in admitting and discharge offices, and on bills, or, upon request, that a patient is entitled to have access to and secure copies of his medical record.

2. Access.

A. If a patient of an institution licensed or certified by the State as a hospital, intermediate care facility or skilled nursing facility desires access to his medical records, whether diagnostic or therapeutic, the institution shall provide access within a reasonable period of time unless, in the opinion of the institution, it would be detrimental to the health of the patient to gain access to the records. The reasonable period of time shall not exceed 48 hours in the case of patients requesting access while being treated in the institution.

B. If the institution is of the opinion that access to the records by the patient would be detrimental to the health of the patient, the institution shall advise the patient that the records shall be made available to the patient's authorized representative signed by the patient.

C. If an authorized representative for a patient requests, in writing, that the institution provide the authorized representative access to the patient's medical records, and presents a proper authorization from the patient for the release of the information, access shall be provided the authorized representative within a reasonable time, and at a mutually convenient time. The reasonable period of time shall not exceed 48 hours in the case of patients requesting access while being treated in the institution.

3. Copying of records. The patient, or his authorized representative, may, after reviewing the records, request copies of all or a portion of the records. Reasonable costs incurred by the institution in making and providing copies of medical records shall be borne by the requestor and the institution may require payment prior to responding to the request.

Sec. 2. 22 MRSA § 1712 is enacted to read:

§ 1712. Release of medical records

1. Consent and authorization to release.

A. An institution licensed or certified by the State as a hospital, intermediate care facility or skilled nursing facility shall not release medical records to any person other than to patients or their authorized representatives, or a patient's physician, pursuant to section 1711, unless the patient, or his estate if the patient is deceased, provides written authorization for that release. The institution shall notify patients that they may limit their authorization to specified records or particular persons. Any authorization shall expire 2 years from the date of signing.

B. An institution may release information without consent only if the life or health of the patient or of another person is involved.

2. Release list. The institution shall maintain a list of all persons to whom it has released a patient's records. This list shall be part of the patient's medical record.

3. Penalties. Any institution which releases medical records without proper authorization commits a civil violation for which a forfeiture of not less than \$250 shall be adjudged.

4. Research. Any portion of a medical record may be released by an institution for bona fide research purposes, provided that the identity of the patient cannot be ascertained.

5. Prohibition. No provision of this section shall prohibit release of any information in or portion of a medical record if release is authorized or required by other state statutes.

Sec. 3. 32 MRSA sub-c. III is enacted to read:

SUBCHAPTER III
ACCESS TO AND COPYING AND RELEASE OF
MEDICAL RECORDS

§ 3755. Notice of, and provisions for, access and copying of medical records

1. Notice. An individual licensed or certified by the State pursuant to this chapter to provide health care services shall provide written notice, publicly displayed in admitting and discharge offices, and on bills, or upon request, that a patient is entitled to have access to and secure copies of his medical record.

2. Access.

A. If a patient of an individual, licensed or certified by the State pursuant to this chapter, desires access to his medical records, whether diagnostic or therapeutic, the individual shall provide access within a reasonable period of time unless, in the opinion of the individual, it would be detrimental to the health of the patient to gain access to the records.

B. If the individual is of the opinion that access to the records by the patient would be detrimental to the health of the patient, the individual shall advise the patient that the records shall be made available to the patient's authorized representative upon presentation of a proper authorization signed by the patient.

C. If an authorized representative for a patient requests, in writing, that the individual provide the authorized representative access to the patient's medical records, and presents a proper authorization from the patient for the release of the information, access shall be provided the authorized representative within a reasonable time, and at a mutually convenient time.

3. Copying of records. The patient, or his representative, may, after reviewing the records, request copies of all or a portion of the records. Reasonable costs incurred by the individual in making and providing copies of medical records shall be borne by the requestor and the individual may require payment prior to responding to the request.

§ 3756. Release of medical records

1. Consent and authorization to release.

A. An individual licensed or certified by the State pursuant to this chapter shall not release medical records to any person other than to patients or their authorized representatives, pursuant to section 3755, unless the patient, or his estate if the patient is deceased, provides written authorization for release. The individual shall notify patients that they may limit their authorization to specified records or particular persons. Any authorization shall expire 2 years from the date of signing.

B. An individual may release information without consent only if the life or health of the patient or of another person is involved.

2. Release list. The individual shall maintain a list of all persons to whom he has released a patient's records. This list shall be part of the patient's medical record.

3. Penalties. Notwithstanding section 3702, any individual who releases medical records without proper authorization commits a civil violation for which a forfeiture of not less than \$250 shall be adjudged by their board of registration.

4. Research. Any portion of a medical record may be released by an individual for bona fide research purposes, provided that the identity of the patient cannot be ascertained.

5. Prohibitions. No provision of this section shall prohibit release of any information in or portion of a medical record if release is authorized or required by other state statutes.

STATEMENT OF FACT

This bill expands the current provisions of the law by:

1. Inserting a provision for notice;
2. Specifying a right to access before requesting copies;
3. Making explicit the procedures for release to someone other than the patient;
4. Providing rights to access and copying for patients in institutions;
5. Enacting a new subchapter requiring doctors, nurses, dentists, osteopaths, chiropractors, podiatrists and optometrists to comply with the law; and
6. Specifying the penalties and exceptions.