

**IC 16-39**

**ARTICLE 39. HEALTH RECORDS**

**IC 16-39-0.1**

**Chapter 0.1. Application**

**IC 16-39-0.1-1**

**Application of prior law to confidentiality of certain records**

Sec. 1. To the extent that IC 5-14-3 and IC 16-4-8 (before its repeal, now codified in this article) apply to the confidentiality of a record in the possession of a state agency under P.L.9-1991 before the transfer of the record required by P.L.9-1991, those statutes apply to the record after the transfer of the record.

*As added by P.L.220-2011, SEC.317.*

## **IC 16-39-1**

### **Chapter 1. Release of Health Records to Patient and Authorized Persons**

#### **IC 16-39-1-1**

##### **Right of access; written requests; effective duration**

Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

- (1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or
- (2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

- (1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.
- (2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.
- (3) A contact lens prescription must include the following:
  - (A) An expiration date of one (1) year.
  - (B) The number of refills permitted.
- (4) Instructions for use must be consistent with:
  - (A) recommendations of the contact lens manufacturer;
  - (B) clinical practice guidelines; and
  - (C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

- (1) A copy of the patient's health record used in assessing the patient's health condition.
- (2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) A request made under this section is valid for sixty (60) days after the date the request is made.

*As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.66; P.L.102-1994, SEC.1; P.L.2-1995, SEC.72; P.L.108-1996, SEC.4;*

*P.L.157-2006, SEC.4.*

### **IC 16-39-1-2**

#### **X-rays**

Sec. 2. Upon a patient's written request and reasonable notice, a provider shall, at the provider's actual costs, provide to the patient or the patient's designee:

- (1) access to; or
- (2) a copy of;

the patient's x-ray film possessed by the provider.

*As added by P.L.2-1993, SEC.22.*

### **IC 16-39-1-3**

#### **Persons entitled to request records**

Sec. 3. (a) Health records may be requested by a competent patient if the patient is:

- (1) emancipated and less than eighteen (18) years of age; or
- (2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate. If the deceased does not have a personal representative, the spouse of the deceased patient may make a request. If there is no spouse:

- (1) a child of the deceased patient; or
- (2) the parent, guardian, or custodian of the child if the child is incompetent;

may make a request.

*As added by P.L.2-1993, SEC.22. Amended by P.L.28-2002, SEC.1.*

### **IC 16-39-1-4**

#### **Patient's written consent for release of records; contents**

Sec. 4. Except as provided in IC 16-39-5, a patient's written consent for release of the patient's health record must include the following:

- (1) The name and address of the patient.
- (2) The name of the person requested to release the patient's record.
- (3) The name of the person or provider to whom the patient's health record is to be released.
- (4) The purpose of the release.
- (5) A description of the information to be released from the health record.
- (6) The signature of the patient, or the signature of the patient's legal representative if the patient is incompetent.
- (7) The date on which the consent is signed.
- (8) A statement that the consent is subject to revocation at any

time, except to the extent that action has been taken in reliance on the consent.

(9) The date, event, or condition on which the consent will expire if not previously revoked.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-1-5**

##### **Withholding requested information**

Sec. 5. If a provider who is a health care professional reasonably determines that the information requested under section 1 of this chapter is:

(1) detrimental to the physical or mental health of the patient;

or

(2) likely to cause the patient to harm the patient or another;

the provider may withhold the information from the patient.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-1-6**

##### **Inpatient requests**

Sec. 6. This chapter does not authorize a patient to obtain a copy of the patient's health records while the patient is an inpatient of a hospital, health facility, or facility licensed under IC 12-24 or IC 12-29. However, if the inpatient is:

(1) unemancipated and less than eighteen (18) years of age, a parent, guardian, or next of kin (if the patient does not have a parent or guardian) is entitled to obtain a copy of the health records of the inpatient;

(2) incompetent to request the patient's own health records, a spouse, parent, guardian, or next of kin (if the patient does not have a parent, spouse, or guardian) is entitled to obtain a copy of the health records of the inpatient; or

(3) competent, a spouse, parent or next of kin (if the patient does not have a parent or spouse) is entitled to obtain a copy of the health records of the inpatient if the inpatient requests that the records be released.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-1-7**

##### **Child's health records; access to custodial and noncustodial parents**

Sec. 7. (a) Except as provided in subsection (b), a custodial parent and a noncustodial parent of a child have equal access to the parents' child's health records.

(b) A provider may not allow a noncustodial parent access to the child's health records if:

(1) a court has issued an order that limits the noncustodial parent's access to the child's health records; and

(2) the provider has received a copy of the court order or has

actual knowledge of the court order.

(c) If a provider incurs additional expense by allowing a parent equal access to health records under this section, the provider may require the parent requesting the equal access to pay a fee to cover the cost of the additional expense.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-1-8**

##### **Copying fees**

Sec. 8. Except as provided in section 2 of this chapter, IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

*As added by P.L.102-1994, SEC.2.*

#### **IC 16-39-1-9**

##### **Alcohol and drug abuse records**

Sec. 9. Alcohol and drug abuse records described in 42 U.S.C. 290dd-2 may not be disclosed unless authorized in accordance with 42 U.S.C. 290dd-2.

*As added by P.L.4-1997, SEC.3. Amended by P.L.7-2015, SEC.43.*

## **IC 16-39-2**

### **Chapter 2. Release of Mental Health Records to Patient and Authorized Persons**

#### **IC 16-39-2-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to mental health records.  
*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-2-2**

##### **Maintenance of records by provider; contents; dominion; time limits**

Sec. 2. A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability and rehabilitative services, or the state department requires by rule. The provider is:

- (1) the owner of the mental health record;
- (2) responsible for the record's safekeeping; and
- (3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

*As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.67; P.L.4-1997, SEC.4; P.L.215-2001, SEC.84; P.L.141-2006, SEC.90.*

#### **IC 16-39-2-3**

##### **Confidentiality**

Sec. 3. A patient's mental health record is confidential and shall be disclosed only with the consent of the patient unless otherwise provided in the following:

- (1) This chapter.
- (2) IC 16-39-3.
- (3) IC 16-39-4.
- (4) IC 16-39-5-3.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-2-4**

##### **Patient access; restrictions; appeal**

Sec. 4. A patient is entitled to inspect and copy the patient's own mental health record. However, if the provider that is responsible for the patient's mental health records determines for good medical cause, upon the advice of a physician, that the information requested under this section is detrimental to the physical or mental health of the patient, or is likely to cause the patient to harm the patient or another person, the provider may withhold the information from the patient. If the provider is a state institution or agency, the patient may

appeal the provider's refusal to permit the patient to inspect and copy the patient's own record under IC 4-21.5.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-2-5**

##### **Access to patient's designee or legal representative; written request**

Sec. 5. (a) This section applies to private and public treating providers.

(b) Upon a patient's written request and reasonable notice, a patient's mental health record shall be made available for inspection and copying by the provider at any time to an individual or organization designated by the patient or to the patient's legal representative.

(c) A patient's written request for the release of the patient's mental health record under this section must include the following:

- (1) The name of the patient.
- (2) The name of the person requested to release the patient's mental health record.
- (3) The name of the person, provider, or organization to whom the patient's mental health record is to be released.
- (4) The purpose of the release.
- (5) A description of the information to be released from the mental health record.
- (6) The signature of the patient.
- (7) The date the request is signed.
- (8) A statement that the patient's consent to release of mental health records is subject to revocation at any time, except to the extent that action has been taken in reliance on the patient's consent.
- (9) The date, event, or condition on which the patient's consent to release of mental health records will expire if not previously revoked.

(d) Unless otherwise specified in a written request under this section, a request for release of records is valid for one hundred eighty (180) days after the date the request is made.

(e) A request for release of records under this section may be revoked by the patient at any time, except to the extent that action has been taken in reliance on the consent.

(f) Mental health records requested by the patient to be released under this section may be released by the provider receiving the request, regardless of whether the patient is still receiving services from the provider.

*As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.5.*

#### **IC 16-39-2-6**

##### **Disclosure without patient's consent; interpretation of records; immunities**

Sec. 6. (a) Without the consent of the patient, the patient's mental

health record may only be disclosed as follows:

- (1) To individuals who meet the following conditions:
  - (A) Are employed by:
    - (i) the provider at the same facility or agency;
    - (ii) a managed care provider (as defined in IC 12-7-2-127);or
    - (iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.
  - (B) Are involved in the planning, provision, and monitoring of services.
- (2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.
- (3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.
- (4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, or the rules of the provider.
- (5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under a contract with the division of mental health and addiction.
- (6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.
- (7) To a law enforcement agency if any of the following conditions are met:
  - (A) A patient escapes from a facility to which the patient is committed under IC 12-26.
  - (B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.
  - (C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.
  - (D) A patient is in the custody of a law enforcement officer or agency for any reason and:
    - (i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and
    - (ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

- (8) To a coroner or medical examiner, in the performance of the individual's duties.
- (9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.
- (10) To the extent necessary to satisfy reporting requirements under the following statutes:
- (A) IC 12-10-3-10.
  - (B) IC 12-24-17-5.
  - (C) IC 16-41-2-3.
  - (D) IC 31-25-3-2.
  - (E) IC 31-33-5-4.
  - (F) IC 34-30-16-2.
  - (G) IC 35-46-1-13.
- (11) To the extent necessary to satisfy release of information requirements under the following statutes:
- (A) IC 12-24-11-2.
  - (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
  - (C) IC 12-26-11.
- (12) To another health care provider in a health care emergency.
- (13) For legitimate business purposes as described in IC 16-39-5-3.
- (14) Under a court order under IC 16-39-3.
- (15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:
- (A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).
  - (B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
  - (C) The request specifies an individual patient.
  - (D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.
  - (E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.
  - (F) The mental health record information disclosed to the United States Secret Service includes only:
    - (i) the patient's name, age, and address;
    - (ii) the date of the patient's admission to or discharge from the facility; and
    - (iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the

person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

*As added by P.L.2-1993, SEC.22. Amended by P.L.23-1993, SEC.77; P.L.40-1994, SEC.68; P.L.6-1995, SEC.37; P.L.149-1996, SEC.1; P.L.1-1997, SEC.95; P.L.4-1997, SEC.6; P.L.111-1997, SEC.8; P.L.253-1997(ss), SEC.20; P.L.1-1998, SEC.120; P.L.1-1999, SEC.46; P.L.272-1999, SEC.53; P.L.215-2001, SEC.85; P.L.141-2006, SEC.91; P.L.145-2006, SEC.141; P.L.1-2007, SEC.136; P.L.134-2013, SEC.1; P.L.233-2015, SEC.28.*

#### **IC 16-39-2-7**

##### **Discovery or admissibility without patient's consent**

Sec. 7. Except as provided in section 8 of this chapter, the mental health record is not discoverable or admissible in any legal proceeding without the consent of the patient.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-2-8**

##### **Court ordered release of mental health records; provider provision of records**

Sec. 8. (a) The court may order the release of the patient's mental health record without the patient's consent upon the showing of good cause following a hearing under IC 16-39-3 or in a proceeding under IC 31-30 through IC 31-40 following a hearing held under the Indiana Rules of Trial Procedure.

(b) A provider shall, upon the request of a court that has committed a patient under IC 12-26-7, IC 12-26-8, IC 35-36-2-4, or IC 35-36-3, release to the court any information from the patient's mental health record that is required by the Federal Bureau of Investigation for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

*As added by P.L.2-1993, SEC.22. Amended by P.L.1-1997, SEC.96; P.L.131-2014, SEC.7.*

#### **IC 16-39-2-9**

##### **Exercise of patient's rights by others; equal access to records; fees**

Sec. 9. (a) For the purposes of this chapter, the following persons are entitled to exercise the patient's rights on the patient's behalf:

- (1) If the patient is a minor, the parent, guardian, or other court appointed representative of the patient.
- (2) If the provider determines that the patient is incapable of

giving or withholding consent, the patient's guardian, a court appointed representative of the patient, a person possessing a health care power of attorney for the patient, or the patient's health care representative.

(b) A custodial parent and a noncustodial parent of a child have equal access to the child's mental health records unless:

- (1) a court has issued an order that limits the noncustodial parent's access to the child's mental health records; and
- (2) the provider has received a copy of the court order or has actual knowledge of the court order.

If the provider incurs an additional expense by allowing a parent equal access to a child's mental health records, the provider may require the parent requesting the equal access to pay a fee under IC 16-39-9 to cover the cost of the additional expense.

*As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.7.*

### **IC 16-39-2-10**

#### **Decedents' records; consent to release**

Sec. 10. For the purposes of this chapter, consent to the release of a deceased patient's record may be given by the personal representative of the patient's estate. If there is no appointment of a personal representative, consent may be given by:

- (1) the patient's spouse; or
- (2) if there is no spouse, any responsible member of the patient's family, including a parent, guardian, or custodian of the deceased patient's minor child.

*As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.8.*

### **IC 16-39-2-11**

#### **Copying fees**

Sec. 11. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

*As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.3.*

### **IC 16-39-2-12**

#### **Application to other mental health records laws**

Sec. 12. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.

*As added by P.L.4-1997, SEC.9.*

### **IC 16-39-3**

#### **Chapter 3. Release of Mental Health Records in Investigations and Legal Proceedings**

### **IC 16-39-3-1**

#### **Application of chapter**

Sec. 1. This chapter applies only to mental health records.  
*As added by P.L.2-1993, SEC.22.*

### **IC 16-39-3-2**

#### **Repealed**

*(Repealed by P.L.4-1997, SEC.14.)*

### **IC 16-39-3-3**

#### **Petition for release of patient's records**

Sec. 3. A person:

- (1) seeking access to a patient's mental health record without the patient's written consent in an investigation or prosecution resulting from a report filed under IC 16-39-2-6(10); or
- (2) who has filed or is a party to a legal proceeding and who seeks access to a patient's mental health record without the patient's written consent;

may file a petition in a circuit or superior court requesting a release of the patient's mental health record.

*As added by P.L.2-1993, SEC.22. Amended by P.L.108-1996, SEC.5.*

### **IC 16-39-3-4**

#### **Notice of hearing**

Sec. 4. Except as provided in section 8 of this chapter, notice of a hearing to be conducted under this chapter shall be served at least fifteen (15) days in advance on the following:

- (1) The patient.
- (2) The guardian, guardian ad litem or court appointed special advocate appointed for a minor, parent, or custodian of a patient who is incompetent.
- (3) The provider that maintains the record or the attorney general if the provider is a state institution.

*As added by P.L.2-1993, SEC.22.*

### **IC 16-39-3-5**

#### **Right to counsel**

Sec. 5. If a patient has an attorney, the patient has the right to have an attorney present at a hearing conducted under this chapter. The notice served under section 4 of this chapter must state the patient's right to have an attorney present if the patient has an attorney. If the patient is under an inpatient commitment to a mental health facility at the time a petition under section 3 of this chapter is filed and the patient is unable to afford an attorney, the court shall appoint an

attorney for the patient.  
*As added by P.L.2-1993, SEC.22.*

**IC 16-39-3-6**  
**Confidential hearing record**

Sec. 6. A hearing under this chapter shall be conducted in a manner that preserves the confidentiality of the record of the hearing.  
*As added by P.L.2-1993, SEC.22.*

**IC 16-39-3-7**  
**Release of records; necessary findings**

Sec. 7. At the conclusion of the hearing, the court may order the release of the patient's mental health record if the court finds by a preponderance of the evidence that:

- (1) other reasonable methods of obtaining the information are not available or would not be effective; and
- (2) the need for disclosure outweighs the potential harm to the patient. In weighing the potential harm to the patient, the court shall consider the impact of disclosure on the provider-patient privilege and the patient's rehabilitative process.

*As added by P.L.2-1993, SEC.22.*

**IC 16-39-3-8**  
**Child in need of services; petition for emergency hearing on request for records of parent, guardian, or custodian**

Sec. 8. If an emergency exists in which a child is alleged to be a child in need of services under IC 31-34-1 and the department of child services seeks access to the mental health records of the parent, guardian, or custodian of the child as a part of a preliminary inquiry under IC 31-34-7, the department of child services may file a verified petition, which sets forth the facts the department of child services alleges constitute an emergency, seeking an emergency hearing under this section. A request for access to a patient's mental health record under this section shall be heard by the juvenile court having jurisdiction under IC 31-30 through IC 31-40. Notice of a hearing to be conducted under this section shall be served not later than twenty-four (24) hours before the hearing to all persons entitled to receive notice under section 4 of this chapter. If actual notice cannot be given, the department of child services shall file with the court an affidavit stating that verbal notice or written notice left at the last known address of the respondent was attempted not less than twenty-four (24) hours before the hearing. A hearing under this section shall be held not later than forty-eight (48) hours after the petition for an emergency hearing is filed. The juvenile court shall enter written findings concerning the release or denial of the release of the mental health records of the parent, guardian, or custodian. The juvenile court shall order the release of the mental health records if the court finds the following by a preponderance of the evidence:

(1) Other reasonable methods of obtaining the information sought are not available or would not be effective.

(2) The need for disclosure in the best interests of the child outweighs the potential harm to the patient caused by a necessary disclosure. In weighing the potential harm to the patient, the juvenile court shall consider the impact of disclosure on the provider-patient relationship and the patient's rehabilitative process.

*As added by P.L.2-1993, SEC.22. Amended by P.L.4-1993, SEC.245; P.L.5-1993, SEC.258; P.L.1-1997, SEC.97; P.L.146-2008, SEC.448.*

### **IC 16-39-3-9**

#### **Court order authorizing release of records; requisites**

Sec. 9. A court order authorizing release of a patient's mental health record under this chapter must do the following:

(1) Limit disclosure to those parts of the patient's record that are essential to fulfill the objective of the order.

(2) Limit disclosure to those persons whose need for information is the basis of the order.

(3) Include other measures necessary to limit disclosure for the protection of the patient, the provider-patient privilege, and the rehabilitative process.

*As added by P.L.2-1993, SEC.22.*

### **IC 16-39-3-10**

#### **Admission of record or related testimony in evidence; confidentiality**

Sec. 10. If a patient's mental health record or testimony related to a patient's mental health is offered or admitted into evidence in a legal proceeding, the court shall maintain the record or transcript of the testimony as a confidential court record. The record or transcript may not be used in any other proceeding or for any other purpose.

*As added by P.L.2-1993, SEC.22.*

### **IC 16-39-3-11**

#### **Proceedings under IC 31-6; exception**

Sec. 11. Except as provided in section 8 of this chapter:

(1) this chapter;

(2) the hearing process described in this chapter; and

(3) the standards described in this chapter;

do not apply to proceedings under IC 31-30 through IC 31-40. A proceeding for access to a patient's mental health records under IC 31-30 through IC 31-40 is subject to the Indiana Rules of Trial Procedure.

*As added by P.L.2-1993, SEC.22. Amended by P.L.1-1997, SEC.98.*

### **IC 16-39-3-12**

#### **Copying fees**

Sec. 12. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.  
*As added by P.L.102-1994, SEC.4.*

**IC 16-39-3-13**

**Application to other mental health records laws**

Sec. 13. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.  
*As added by P.L.4-1997, SEC.10.*

## IC 16-39-4

### Chapter 4. Provision of Mental Health Information

#### IC 16-39-4-1

##### Application of chapter

Sec. 1. This chapter applies only to patients receiving mental health services.

*As added by P.L.2-1993, SEC.22.*

#### IC 16-39-4-2

##### **"Primary caregiver"; written request from relative or guardian for information; provision of mental health records to a school**

Sec. 2. (a) As used in this section, "primary caregiver" means an individual who provides for the physical, emotional, and social needs of another individual who cannot provide for the other individual's own needs.

(b) Upon the written request of a patient's:

- (1) spouse;
- (2) parent if:
  - (A) the patient does not have a spouse; or
  - (B) the parent is the primary caregiver to the patient;
- (3) adult child if the patient has neither a spouse nor a parent;
- (4) sibling if the patient has neither a spouse, a parent, nor an adult child; or
- (5) guardian, guardian ad litem, or court appointed special guardian;

who is involved in the planning, provision, and monitoring of mental health services delivered to the patient and the written consent of the treating physician for the patient, the provider shall provide the individual described in subdivision (1), (2), (3), (4), or (5) with the information described in section 3 of this chapter.

(c) Upon the written request of the parent, guardian, or court appointed special guardian who is involved in the planning, provision, and monitoring of the mental health of a child enrolled in a school, the provider shall provide the child's school principal or school leader with information described in section 3 of this chapter without charge.

(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the federal Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may

confirm the provider's immunity.  
*As added by P.L.2-1993, SEC.22. Amended by P.L.189-1995, SEC.2;  
P.L.41-2014, SEC.1.*

#### **IC 16-39-4-3**

##### **Summary response from provider; limitation for mental health information to school; requirement of confidentiality agreement; immunity**

Sec. 3. (a) If a provider has received a written request under section 2(b) of this chapter, the provider shall provide the following information to the individual who made the request or, if the request is made under section 2(c) of this chapter, the patient's school principal or school leader:

- (1) A summary of the patient's diagnosis.
- (2) A summary of the information required to be given to the patient under IC 12-27-6-2 and IC 12-27-6-3.
- (3) The types of medication that have been prescribed for the patient.
- (4) A summary of the patient's prognosis.

If the information is provided after a request is made under section 2(c) of this chapter, the provider shall limit the information provided to information concerning the patient's mental health. The school principal or school leader shall keep the information the principal or school leader receives under this section confidential.

(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a confidentiality agreement prescribed by the provider confirming that the information and mental health records released by the provider may not be disclosed by the principal except to the minimum necessary extent required to:

- (1) inform necessary school staff of the principal's or school leader's decision regarding the student's fitness for school attendance and participation in services; or
- (2) satisfy duties imposed upon the principal or school leader by law.

(c) A school principal or school leader who receives information and mental health records under this chapter is immune from civil, criminal, and administrative liability for disclosures made pursuant to this chapter.

*As added by P.L.2-1993, SEC.22. Amended by P.L.41-2014, SEC.2.*

#### **IC 16-39-4-4**

##### **Copying fees**

Sec. 4. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

*As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.5.*

#### **IC 16-39-4-5**

**Information subject to disclosure; exempt institutions; failure of patient to authorize release of information**

Sec. 5. (a) This section does not apply to the following:

- (1) An institution licensed under IC 12-25.
- (2) A hospital licensed under IC 16-21.
- (3) A treatment facility certified under IC 12-23-1-6.
- (4) A state institution listed under IC 12-24-1.

(b) This section applies only to a patient's mental health records.

(c) A patient, or the patient's legal representative if the patient is incompetent, who consents in writing to the release of information to an insurer that has issued a policy of accident and sickness insurance (as defined in IC 27-8-5-1) covering the patient, authorizes the provider to disclose the following information to the insurer:

- (1) The patient's name and the policy or contract number.
- (2) The date the patient was admitted to a treatment facility or the date the patient began receiving mental health, intellectual disability, or substance abuse (as defined in IC 27-8-5-15.5) services.
- (3) The date of the beginning of the patient's illness.
- (4) The date the patient was discharged from the treatment facility or the date the services were terminated, if known.
- (5) The diagnosis for the patient with concise information substantiating the diagnosis.
- (6) A brief description of the services provided to the patient, including the type of therapy used, medications ordered and administered, the total number of hours spent in individual, group, or family treatment, recreational therapy, or rehabilitation activities.
- (7) The patient's status as either an inpatient or outpatient.
- (8) The patient's relationship to the policyholder or contract subscriber.
- (9) The patient's prognosis and plan of treatment.

An insurer's request for the release of additional mental health information relating to subdivisions (1) through (9) does not require a further release in order for the provider to submit the additional information to the insurer. The provider may release to the insurer mental health information in addition to that reasonably related to subdivisions (1) through (9) if an additional written consent is obtained from the patient or the patient's representative authorizing the release of all information necessary for the insurer to adjudicate a claim made by the patient or the patient's representative. If such a release is obtained, no further releases are required in order for the provider to submit additional information in response to subsequent requests for information by the insurer to complete its review of the claim.

(d) Nothing in this section removes the obligation of a patient to pay for services if the patient's failure to authorize the release of information under this section results in the limitation or denial of

insurance benefits.

*As added by P.L.102-1994, SEC.6. Amended by P.L.117-2015, SEC.33.*

**IC 16-39-4-6**

**Application to other mental health records laws**

Sec. 6. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.

*As added by P.L.4-1997, SEC.11.*

## **IC 16-39-5**

### **Chapter 5. Release of Health Records to Third Parties and for Legitimate Business Purposes**

#### **IC 16-39-5-1**

##### **Interprovider exchange of records without patient's consent**

Sec. 1. This article does not prohibit a provider from obtaining a patient's health records from another provider without the patient's consent if the health records are needed to provide health care services to the patient.

*As added by P.L.2-1993, SEC.22. Amended by P.L.6-1995, SEC.38.*

#### **IC 16-39-5-2**

##### **Patient's written consent to insurer to obtain records or medical information**

Sec. 2. (a) Except as provided in IC 16-39-2, IC 16-39-3, IC 16-39-4, and subsection (d), this article does not prohibit an accident and sickness insurance company (as defined in IC 27-8-5-1) from obtaining health records or medical information with a written consent executed at the time of receiving an application for insurance or at any other time. Such consent may be used at any time for legitimate accident and sickness insurance purposes.

(b) A written consent to obtain health records or medical information obtained at the time of application by an insurance company making any of the types of insurance not defined in IC 27-8-5 may be used for any legitimate insurance purposes for up to two (2) years from the date the contract is issued. A written consent obtained at any other time by an insurance company not defined in IC 27-8-5 may be used for up to one (1) year after the date the consent was signed. A copy of all health records or medical information obtained by an insurance company, other than a life insurance company (as defined in IC 27-1-2-3(s)), by means of the written consent of the patient under this subsection shall be furnished to the patient by the insurance company upon the written request of the patient.

(c) Consents obtained by any insurance company need only contain the following:

- (1) Name of the insured.
- (2) Date the consent is granted.
- (3) Name of the company to which consent is given to receive information.
- (4) General nature of the information that may be secured by use of the consent.

(d) Except as provided in subsection (e), an insurance company other than a life insurance company (as defined in IC 27-1-2-3(s)) may not obtain the results of any genetic screening or testing (as defined in IC 27-8-26-2) without a separate written consent by an individual at the time of application for insurance or at any other

time. The form on which an individual indicates written consent must:

- (1) indicate in at least 10 point boldface type that the individual need not consent to releasing the results of any genetic testing or screening; and
- (2) be approved by the commissioner before use.

(e) An insurance company other than a life insurance company (as defined in IC 27-1-2-3(s)) is not liable if the insurance company:

- (1) inadvertently receives the results of any genetic testing or screening (as defined in IC 27-8-26-2); and
- (2) has not obtained a separate written consent as required under subsection (d).

An insurance company that inadvertently receives testing or screening results may not use the genetic testing or screening results in violation of IC 27-8-26.

*As added by P.L.2-1993, SEC.22. Amended by P.L.1-1994, SEC.89; P.L.150-1997, SEC.1.*

### **IC 16-39-5-3**

#### **Provider's use of records; confidentiality; violations**

Sec. 3. (a) As used in this section, "association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

- (1) Submission of claims for payment from third parties.
- (2) Collection of accounts.
- (3) Litigation defense.
- (4) Quality assurance.
- (5) Peer review.
- (6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a public health activity or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6. The information disclosed by:

- (1) a provider to the association; or
- (2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a public health activity that:

- (1) is based on information disclosed under subsection (f); and
- (2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

- (1) advisory or deliberative material of a speculative nature; or
- (2) an expression of opinion;

including preliminary reports produced in connection with a public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association in compliance with subsection (f).

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

- (1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.
- (2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

*As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.7; P.L.103-1994, SEC.1; P.L.2-1995, SEC.73; P.L.231-1999, SEC.15; P.L.44-2002, SEC.5; P.L.78-2004, SEC.23.*

#### **IC 16-39-5-4**

**Copying fees**

Sec. 4. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

*As added by P.L.102-1994, SEC.8.*

## **IC 16-39-6**

### **Chapter 6. Access to Hospital Records by Hospital Medical Staff Committees**

#### **IC 16-39-6-1**

##### **Purposes**

Sec. 1. It is in the interest of public health and patient medical care that hospital medical staff committees have access to the records and other information concerning the condition and treatment of hospital patients to evaluate the care and treatment of patients as follows:

- (1) For research purposes.
- (2) For the purpose of gathering statistics and other information concerning the prevention and treatment of diseases, illnesses, and injuries.
- (3) For the purpose of reducing morbidity or mortality.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-6-2**

##### **Right of hospital to provide records to medical staff committee**

Sec. 2. To carry out the purposes described in section 1 of this chapter, a hospital or agents or employees of the hospital may provide medical records or other information concerning the condition or treatment of a hospital patient to a hospital medical staff committee.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-6-3**

##### **Confidentiality; production on court order**

Sec. 3. (a) Except as provided in subsection (b):

- (1) records or other information furnished a hospital medical staff committee under this chapter concerning the care and treatment of a hospital patient;
- (2) proceedings of a hospital medical staff committee; and
- (3) other records or reports of a hospital medical staff committee;

are confidential.

(b) The confidential records and proceedings described in subsection (a) may be produced on court order in a cause in which the records and proceedings are relevant or material.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-6-4**

##### **Use or publication of obtained information; restrictions**

Sec. 4. A hospital medical staff committee shall use or publish information the committee obtains from records or other information submitted to the committee concerning the care or treatment of a patient only as follows:

- (1) To evaluate matters of medical care, therapy, and treatment.
- (2) For research and statistical purposes.

*As added by P.L.2-1993, SEC.22.*

#### **IC 16-39-6-5**

##### **Protection of patient's identity**

Sec. 5. (a) The members, agents, or employees of a hospital medical staff committee may not disclose the identity of any patient whose records have been studied in a report or publication of the committee.

(b) The members, agents, and employees of the medical staff committee shall protect the identity of a patient whose condition or treatment has been studied and may not disclose or reveal the identity of any patient.

*As added by P.L.2-1993, SEC.22.*

## **IC 16-39-7**

### **Chapter 7. Maintenance of Health Records, X-rays, and Other Tests**

#### **IC 16-39-7-1**

##### **Maintenance of health records by providers; violations**

Sec. 1. (a) As used in this section, "provider" means the following:

- (1) A physician.
- (2) A dentist.
- (3) A registered nurse.
- (4) A licensed practical nurse.
- (5) An optometrist.
- (6) A podiatrist.
- (7) A chiropractor.
- (8) A physical therapist.
- (9) A psychologist.
- (10) An audiologist.
- (11) A speech-language pathologist.
- (12) A home health agency licensed under IC 16-27.
- (13) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24 or IC 12-29.

(b) A provider shall maintain the original health records or microfilms of the records for at least seven (7) years.

(c) A provider who violates subsection (b) commits an offense for which a board may impose disciplinary sanctions against the provider under the law that governs the provider's licensure, registration, or certification under this title or IC 25.

(d) A provider is immune from civil liability for destroying or failing to maintain a health record in violation of this section if the destruction or failure to maintain the health record occurred in connection with a disaster emergency as declared by the governor under IC 10-14-3-12 or other disaster, unless the destruction or failure to maintain the health record was due to negligence by the provider.

*As added by P.L.2-1993, SEC.22. Amended by P.L.177-2009, SEC.7.*

#### **IC 16-39-7-2**

##### **Maintenance of x-rays by providers; mammograms; violations; civil liability**

Sec. 2. (a) This section does not apply to original mammograms, which are governed by section 3 of this chapter.

(b) As used in this section, "x-ray film" includes a microfilm copy of the x-ray film.

(c) A provider shall maintain a patient's x-ray film for at least five (5) years.

(d) At the time an x-ray film is taken, the provider shall do one (1) of the following:

- (1) Inform the patient in writing of the following:
  - (A) The patient's x-ray film will be kept on file by the provider for at least five (5) years.
  - (B) If the patient would like a copy of the x-ray film during that period, the provider will provide the patient with a copy of the x-ray film at the actual cost to the provider, as provided in IC 16-39-1-2.
- (2) Have posted conspicuously in the x-ray examination area a sign informing patients of the following:
  - (A) All x-ray films will be kept on file by a provider for at least five (5) years.
  - (B) On request during that time, the provider will provide the patient a copy of the patient's x-ray film at the actual cost to the provider.

(e) A provider is immune from civil liability for destroying or otherwise failing to maintain an x-ray film in violation of this section if the destruction or failure to maintain the x-ray film is inadvertent and not done in bad faith. However, this subsection does not prevent the imposition of disciplinary sanctions against the provider, as described in subsection (f).

(f) A provider who violates this section commits an offense for which a board may impose disciplinary sanctions against the provider under the statute that governs the provider's licensure, registration, or certification under this title or IC 25.

*As added by P.L.2-1993, SEC.22. Amended by P.L.86-2001, SEC.1.*

### **IC 16-39-7-3**

#### **Original mammogram films; maintenance; transfer**

Sec. 3. (a) Except as provided in subsection (b), a provider shall maintain a patient's original mammogram films and reports concerning the mammogram films in a permanent medical record of the patient for not less than:

- (1) five (5) years; or
- (2) if the provider performs no additional mammograms of the patient, ten (10) years;

after the date the original mammogram films were taken.

(b) Upon request by or on behalf of a patient, a provider shall permanently or temporarily transfer a patient's original mammogram films and copies of any reports concerning the mammogram films to:

- (1) a medical institution;
- (2) a physician or other health care provider of the patient; or
- (3) the patient.

(c) Any fee charged to a patient for providing mammogram films and copies of reports under subsection (b) may not exceed the provider's actual cost in providing the films and reports.

(d) At the time a mammogram is taken, the provider shall inform the patient in writing of:

- (1) the length of time that the patient's original mammogram

films will be maintained; and

(2) the procedure for obtaining the original mammogram films and copies of reports concerning the mammogram films as described in subsection (b).

(e) A provider is immune from civil liability for destroying or otherwise failing to maintain a patient's original mammogram films or reports concerning the mammogram films in violation of this section if the destruction or failure to maintain the original mammogram films or reports is inadvertent and not done in bad faith. However, this subsection does not prevent the imposition of disciplinary sanctions against the provider, as described in subsection (f).

(f) A provider who violates this section commits an offense for which a board may impose disciplinary sanctions against the provider under the statute that governs the provider's licensure, registration, or certification under this title or IC 25.

(g) Upon receiving written notice of a change in federal regulations regarding the maintenance and storage of x-ray film taken as a supplemental medical diagnostic tool to mammography, the state department shall make reasonable attempts to promptly notify all x-ray facilities providing mammographic x-ray services regarding the change.

*As added by P.L.86-2001, SEC.2.*

## **IC 16-39-7.1**

### **Chapter 7.1. Autopsy Records**

#### **IC 16-39-7.1-1**

##### **Applicability of chapter**

Sec. 1. This chapter applies to a physician.

*As added by P.L.271-2001, SEC.3.*

#### **IC 16-39-7.1-1.5**

##### **"Training or educational purposes"**

Sec. 1.5. As used in this chapter, "training or educational purposes" means for the purpose of:

- (1) teaching or giving lectures to:
  - (A) medical students;
  - (B) physicians;
  - (C) coroners;
  - (D) law enforcement personnel;
  - (E) public safety personnel;
  - (F) attorneys; or
  - (G) an individual who relies upon information or records regulated under this chapter in the course of the individual's profession or occupation;
- (2) publication in professional medical:
  - (A) books; or
  - (B) periodicals; or
- (3) use in:
  - (A) training videos; or
  - (B) computer programs.

*As added by P.L.179-2003, SEC.2.*

#### **IC 16-39-7.1-2**

##### **Confidentiality of records**

Sec. 2. Except as provided in section 3 of this chapter, a photograph, a video recording, or an audio recording of an autopsy in the custody of a physician is confidential.

*As added by P.L.271-2001, SEC.3.*

#### **IC 16-39-7.1-3**

##### **Access to records; confidentiality**

Sec. 3. (a) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.

(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal

government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for case consultation with a pathologist or forensic scientist. The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording of the autopsy for training or educational purposes if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

- (1) the name;
- (2) the address;
- (3) the Social Security number;
- (4) a full view of the face; or
- (5) identifying marks on the body that are unrelated to the educational purpose of the information or to the medical condition or the medical status;

of the deceased individual. A physician who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the physician releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. A physician who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(d) Except as provided in subsection (c), the physician having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy without a court order.

(e) Information disclosed under subsection (c) is confidential.

*As added by P.L.271-2001, SEC.3. Amended by P.L.179-2003, SEC.3.*

#### **IC 16-39-7.1-4**

##### **Court orders regarding access to records**

Sec. 4. (a) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(b) In determining good cause, the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording of an autopsy must be under the direct supervision of the physician who is the custodian of the record.

*As added by P.L.271-2001, SEC.3.*

#### **IC 16-39-7.1-5**

##### **Notice to survivors of petitions for access to records**

Sec. 5. (a) A surviving spouse shall be given:

- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and
- (3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(b) If there is no surviving spouse, the notice under this section must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

*As added by P.L.271-2001, SEC.3.*

#### **IC 16-39-7.1-6**

##### **Violations**

Sec. 6. (a) A provider who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and
- (2) knowingly or intentionally violates this chapter;

commits a Class A misdemeanor.

(b) A person who knowingly or intentionally violates a court order issued under this chapter commits a Class A misdemeanor.

(c) A person who:

- (1) receives autopsy information under section 3(c) of this chapter; and
- (2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.

*As added by P.L.271-2001, SEC.3. Amended by P.L.179-2003, SEC.4.*

**IC 16-39-8**

**Chapter 8. Immunity From Liability**

**IC 16-39-8-1**

**Libel or slander; immunity**

Sec. 1. Providers and the providers' employees, agents, and representatives are immune from civil action for libel or slander arising from information or entries made in a patient health record if the information or entries are made in good faith and without malice.  
*As added by P.L.2-1993, SEC.22.*

**IC 16-39-8-2**

**Applicability**

Sec. 2. This chapter applies to mental health records.  
*As added by P.L.4-1997, SEC.12.*

## **IC 16-39-9**

### **Chapter 9. Charges Permitted for Providing Copies of Medical Records**

#### **IC 16-39-9-1**

##### **Chapter exemptions**

Sec. 1. This chapter does not apply to x-rays covered by either of the following:

- (1) IC 16-39-1-2.
- (2) IC 16-39-7-2.

*As added by P.L.102-1994, SEC.9.*

#### **IC 16-39-9-2**

##### **Maximum copying fees**

Sec. 2. A provider may not charge a person for making and providing copies of medical records an amount greater than the amount set in rules adopted by the department of insurance under section 4 of this chapter.

*As added by P.L.102-1994, SEC.9. Amended by P.L.173-2007, SEC.1.*

#### **IC 16-39-9-3**

##### **Repealed**

*(As added by P.L.102-1994, SEC.9. Amended by P.L.78-2004, SEC.24. Repealed by P.L.173-2007, SEC.47.)*

#### **IC 16-39-9-4**

##### **Cost adjustments by department**

Sec. 4. (a) As used in this section, "department" refers to the department of insurance created by IC 27-1-1-1.

(b) The department may adopt rules under IC 4-22-2 to set the amounts that may be charged for copying records under this chapter. In adopting rules under this section, the department shall consider the following factors relating to the costs of copying medical records:

- (1) The following labor costs:
  - (A) Verification of requests.
  - (B) Logging requests.
  - (C) Retrieval.
  - (D) Copying.
  - (E) Refiling.
- (2) Software costs for logging requests.
- (3) Expense costs for copying.
- (4) Capital costs for copying.
- (5) Billing and bad debt expenses.
- (6) Space costs.

*As added by P.L.102-1994, SEC.9. Amended by P.L.173-2007, SEC.2.*

**IC 16-39-10**

**Chapter 10. Disclosure of Protected Health Information**

**IC 16-39-10-1**

**"Covered entity"**

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103 as in effect on November 4, 2004.

*As added by P.L.47-2005, SEC.1.*

**IC 16-39-10-2**

**"Law enforcement official"**

Sec. 2. As used in this chapter, "law enforcement official" has the meaning set forth in 45 CFR 164.501 as in effect on November 4, 2004.

*As added by P.L.47-2005, SEC.1.*

**IC 16-39-10-3**

**"Protected health information"**

Sec. 3. As used in this chapter, "protected health information" has the meaning set forth in 45 CFR 160.103 as in effect on November 4, 2004.

*As added by P.L.47-2005, SEC.1.*

**IC 16-39-10-4**

**Disclosure to law enforcement official**

Sec. 4. A covered entity may disclose the following protected health information to a law enforcement official who requests the protected health information for the purpose of identifying or locating a missing person:

- (1) Contact information, including family, personal representative, and friends of the individual.
- (2) Previous addresses of the individual and the individual's family, personal representative, and friends.

*As added by P.L.47-2005, SEC.1.*