



LEGAL  
SERVICES

INCORPORATED

## How Do I Get Access to My Clinical Records?

### What is a clinical record?

This 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 Mental Hygiene Law §33.13, such a facility is under a duty to keep sufficient 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.<sup>1</sup>

### Do I have a right to access my clinical records?

Yes. Under Federal and New York law, a patient/client about whom clinical records are maintained by a facility<sup>2</sup> (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, 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 can take between 10 and 14 days, or a “reasonable time,” to furnish you with copies.

If you want copies, a facility cannot charge you more than 75 cents per page, with the exception of x-rays (which cost more), and the cost of mailing records. If you cannot afford the cost of copies, you are still entitled to your clinical records.

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<sup>1</sup> This includes an order of a court; attorneys representing patients or clients in proceedings in which the patients' or clients' involuntary hospitalization 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; the State Board of Professional Medical Conduct; State Division of Criminal Justice Services; a correctional facility with respect to named inmates; Director of Community Service (as defined in the Mental Hygiene law); 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. 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.

<sup>2</sup> 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 may appeal the denial at no cost to a Clinical Records Access Review Committee appointed by the Office of Mental Health. You should first notify the facility that you would like a review of the denial. If your request is still denied, the facility must forward your clinical records and the reason for its denial to the Clinical Records Access Review Committee within ten days. Then you should send your appeal letter to:

Clinical Records Access Review Committee  
Office of Mental Health  
44 Holland Avenue  
Albany, NY 12229

Your letter should explain your request, and should include dates of your requests for documents, the business address of the records officer, your name and return address. Your request will be reviewed and you will be given written notification of whether you will be given access or not.

If the Clinical Records Access Review Committee denies your request, you have a right to begin a special proceeding in New York 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.