FAQ: Release of Medical Records to the Patient
from Dr. Quack’s Column, March 2000 Synergy, pages 4 and 6

Dear Dr. Quack: If a patient requests a copy of his or her records, do I have to comply?

Dr. Quack’s quote: Yes. In 1999 the Unicameral passed LB-17, which requires a practitioner to release a copy of a patient record under most circumstances. This, of course, is one more reason that you should make your records legible, thorough, well organized, neat, and free of extraneous remarks.

The statute is enclosed (71-8401 through 71-8407); you should take time to peruse it then save it for future reference. You can look at this or any Nebraska statute at www.unicam.state.ne.us/statutes.htm.

Comprehensive federal regulations on the release of records to patients and to third parties is currently in the rule-making process in Washington, D.C. We will keep you informed.

Nebraska Statutes on Release of Medical Records
Implemented in August, 1999

71-8401. Legislative findings. The Legislature finds that medical records contain personal and sensitive information that if improperly used or released may do significant harm to a patient's interests. Patients need access to their own medical records as a matter of fairness to enable them to make informed decisions about their health care and correct inaccurate or incomplete information about themselves.

71-8402. Terms, defined. For purposes of sections 71-8401 to 71-8407: (1) Medical records means a provider's record of a patient's health history and treatment rendered; (2) Mental health medical records means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, or a mental health practitioner licensed or certified pursuant to sections 71-1,295 to 71-1,338; (3) Patient includes a patient or former patient; (4) Patient request or request of a patient includes the request of a patient's guardian or other authorized representative; and sections 71-1,295 to 71-1,338; (5) Provider means a physician, psychologist, chiropractor, dentist, hospital, clinic, and any other licensed or certified health care practitioner or entity.

71-8403. Access to medical records. (1) A patient may request a copy of the patient's medical records or may request to examine such records. Access to such records shall be provided upon request pursuant to sections 71-8401 to 71-8407, except that mental health medical records may be withheld if any treating physician, psychologist, or mental health practitioner determines in his or her professional opinion that release of the records would not be in the best interest of the patient unless the release is required by court order. The request and any authorization shall be in writing and shall be valid for one hundred eighty days after the date of execution by the patient. (2) Upon receiving a written request for a copy of the patient's medical records under subsection (1) of this section, the provider shall furnish the person making the request a copy of such records not later than thirty days after the written request is received. (3) Upon receiving a written request to examine the patient's medical records under subsection (1) of this section, the provider shall, as promptly as required under the circumstances but no later than ten days after receiving
the request: (a) Make the medical records available for examination during regular business
hours; (b) inform the patient if the records do not exist or cannot be found; (c) if the provider does
not maintain the records, inform the patient of the name and address of the provider who
maintains such records, if known; or (d) if unusual circumstances have delayed handling the
request, inform the patient in writing of the reasons for the delay and the earliest date, not later
than twenty-one days after receiving the request, when the records will be available for
examination. The provider shall furnish a copy of medical records to the patient as provided in
subsection (2) of this section if requested. (4) This section does not require the retention of
records or impose liability for the destruction of records in the ordinary course of business prior
to receipt of a request made under subsection (1) of this section. A provider shall not be required
to disclose confidential information in any medical record concerning another patient or family
member who has not consented to the release of the record.

71-8404. Acccess; charges. Except as provided in sections 71-8405 and 71-8407, for medical
records provided under section 71-8403 or under subpoena by a patient or his or her authorized
representative a provider may charge no more than twenty dollars as a handling fee and may
charge no more than fifty cents per page as a copying fee. A provider may charge for the
reasonable cost of all duplications of medical records which cannot routinely be copied or
duplicated on a standard photocopy machine. A provider may charge an amount necessary to
cover the cost of labor and materials for furnishing a copy of an X-ray or similar special medical
record. If the provider does not have the ability to reproduce X-rays or other records requested,
the person making the request may arrange, at his or her expense, for the reproduction of such
records.

71-8405. Charges; exemptions. (1) A provider shall not charge a fee for medical records
requested by a patient for use in supporting an application for disability or other benefits or
assistance or an appeal relating to the denial of such benefits or assistance under: (a) Sections 43-
501 to 43-536 regarding assistance for certain children; (b) Sections 68-1018 to 68-1025 relating
to the medical assistance program; (c) Title II of the federal Social Security Act, as amended, 42
U.S.C. 401 et seq.; (d) Title XVI of the federal Social Security Act, as amended, 42 U.S.C. 1382
et seq.; or (e) Title XVIII of the federal Social Security Act, as amended, 42 U.S.C. 1395 et
seq. (2) Unless otherwise provided by law, a provider may charge a fee as provided in section
71-8404 for the medical records of a patient requested by a state or federal agency in relation to
the patient's application for benefits or assistance or an appeal relating to denial of such benefits
or assistance under subsection (1) of this section. (3) A request for medical records under this
section shall include a statement or document from the department or agency that administers the
issuance of the assistance or benefits which confirms the application or appeal.

71-8406. Provider; immunity. A provider who transfers or submits information in good faith
to a patient's medical record shall not be liable in damages to the patient or any other person for
the disclosure of such medical records as provided in sections 71-8401 to 71-8407.

71-8407. Sections; applicability. Sections 71-8401 to 71-8407 do not apply to the release of
medical records under the Nebraska Workers' Compensation Act.

Effective date August 28, 1999.

You can find all Nebraska statutes at www.unicam.state.ne.us/statutes.htm